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CITY GOVERNMENT  
of  
WINCHESTER













SEAL OF THE REIGN OF EDWARD I USED FOR THE  
RECOGNITION OF LOANS AND MORTGAGES  
IN THE CITY COURT. (See p. 143)

Silver; one and three-quarter inches in diameter; the bust of the king with lion, and two of the City Gates of Winchester: legend (in inverted order) S[igillum] EDW[ardi] REG[is] ANGL[ie] AD RECOGN[icionem] DEBITOR[um] APUD WINTON[iam]

The counterpart of the matrix for making the impression of the reverse is missing, but there is a projection on the back with a hole for attaching it when the two were used together.



CITY GOVERNMENT  
of  
WINCHESTER

From the Records of the  
XIV & XV Centuries

By J. S. Furley M.A.

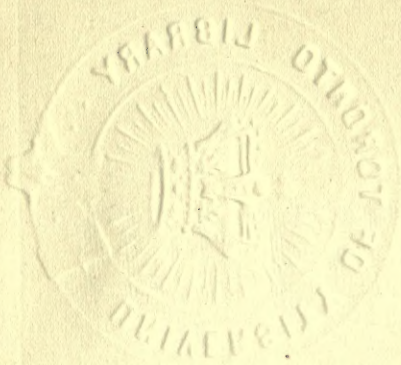


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*MY thanks are due to the Corporation of Winchester, which has given me access to its records and allowed me to copy them; the Warden and Fellows of Winchester College have shown me similar kindness for an important document in their possession. Many friends have put their knowledge and experiences at my disposal, chief amongst whom I would mention Mr. H. Chitty, the Bursar of the College; Mr. W. H. B. Bird, of the Public Record Office; and Dr. Paul Studer, Professor of Romance Languages in the University of Oxford. I am particularly indebted also to Mr. S. Ashill, who is in charge of the City Records, and Mr. F. A. Grant, who has taken the photographs for me.*

WINCHESTER,  
*January, 1923.*







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# I

## THE KING AS LORD

THE object of this work is to endeavour to show, by example of the documents preserved in the city, what were the conditions of city life and the system of city government in Winchester in the end of the fourteenth and the beginning of the fifteenth centuries, the period covered by the reign of Richard II (1377 to 1399) and the years shortly before and after it.

If we ask ourselves what is the essential difference between municipal government in that period and the system we are familiar with at the present day, we shall find it, I think, to consist in this, that in our own time the government of a town is in the hands of a body of persons, elected by the townspeople, who carry out a series of duties fixed for them, and for all other towns of similar status in the country, by a succession of Acts of Parliament, the execution of which is supervised by a central ministry in London; though discretion is allowed within narrow limits as to what powers a town may exercise, there is a general uniformity in duties and powers throughout the kingdom. In the Middle Ages, on the contrary, there was no uniformity; the system of government in a town depended on its individual history, chiefly on its relation to some lord from whose control it had gradually emancipated itself, and on the security it had obtained by charter for the continuance of its own individual customs. There was in existence a growing body of statutes of general application, and there were customs and rights common to the whole kingdom, but at the same time there was an immense amount of variety in rights and obligations. 'In different townships', writes Bracton in the reign of Henry III, 'it is always necessary to ask what the custom of that place is.'<sup>1</sup> We could not have a clearer example than the conflicting

<sup>1</sup> K. Digby, *Law of Real Property*, p. 136.



variety in the qualifications for the exercise of the parliamentary franchise that survived from the Middle Ages until it was swept away by the Reform Act of 1832. At that time Westminster was a democracy, a democracy with what was practically household suffrage; again a borough might be a narrow oligarchy, and in a hotly contested election a dozen voters, as at Truro in 1828, might find themselves a majority. In one borough the right to vote was obtained by apprenticeship, in another by co-optation to the corporation, in another by 'potwalloping', dressing his own victuals being enough to secure a vote to householder or lodger. Diversity in the franchise is only one instance of the variety that the security of local custom produced in all town organization. Another example is the variety in the custom of the succession to property. At Leicester it was the local custom for the youngest son to succeed to his father's property. The custom was deliberately altered in 1255 to conform to the law of primogeniture generally obtaining in the rest of the kingdom. But the change was made not by statute applying to the whole of the country, but by a charter given by Earl Simon, who was lord of the town, to his burgesses.<sup>1</sup> The burgesses had applied to him to alter a system which was found to be inconvenient, and he alters it by adopting as a local custom for Leicester what was the general practice elsewhere. Magistrates in Winchester might bear the same name as those of other towns, but exercise very different functions; we cannot conclude that the Coroner, the Constable, the Alderman had certain duties there merely because we find them to be the duties of officers with the same name in London or Southampton. In the fifteenth century the townspeople of Northampton desire powers to compel householders to pave the street before their houses. They petition Parliament for a statute giving such power to the Mayor and Commonalty; but the principle of responsibility of a householder for paving the road before his house to the centre is not made of general application to all towns, it is only established for Northampton by Letters Patent granted in answer to its petition.<sup>2</sup> To under-

<sup>1</sup> Bateson, *Leicester*, i. 49.

<sup>2</sup> *Northampton Records*, i. 285-8.

stand the system of government therefore in any town we must examine its individual history.

In Winchester the first essential is to know what relation existed between the city and the king. First, we shall find that he is the owner of a great part of the soil of the City. Winchester, as is well known, is not in Domesday Book, but the Conqueror's son, Henry I, caused a survey to be made of the City between the years 1103 and 1115, and his grandson Henry de Blois, Bishop of Winchester, another in 1148. These surveys form the Winton Domesday, now in the archives of the Society of Antiquaries, and have been printed in the *Additamenta to Domesday Book* published in 1816, occupying pages 531-542a and 542b to 562 in that volume. King Henry's object was to obtain a statement of what his property and rights in Winchester exactly were. He accordingly directs the Commissioners, four score and six of the better burgesses, to ascertain what Edward the Confessor had 'in his demesne in every manner' in Winchester. The Commissioners begin with the High Street going 'ethergingis', up and down, from the Eastgate along the north side to the Westgate, and back along the south side to the Eastgate, noting the 'terre regis', or lands held of the King, with the name of the tenant in the Confessor's time, the amount of 'gafol', i.e. land tax or ground rent, and whether he paid any other dues as well. The Commissioners add the name of the present tenant and the annual value of the holding at the time of the survey.

It is worth while to go a short way with them. The first house is a fair specimen of the ordinary High Street tenement. In the reign of Edward the Confessor Alwin Sidessone held it, and paid for it in 'langable', that is land-gafol or ground rent, sixpence, and all other King's dues, the King holding it in demesne. Sixpence, ten shillings perhaps at the modern value of money, is not an excessive rent, and 'all other King's dues' are more formidable in sound than reality. The citizens rendered no military service, they owed suit or were bound to attend at the City Court, which meant little more than attendance at the Burgh-mote, and the only local money



tax, except trading dues, to which we know them to have been liable was the murage levied for the upkeep of the walls. Now look at the other side; 'now it is held', the account goes on, 'by the son of Ralph Rosel, being demised to him by his father, and he has never paid any dues thereon and it yields (to the son of Ralph Rosel that is, not to the King) fifty shillings'. The King exacts a moderate ground rent and the obligation to discharge some civic duties; the tenant has by inheritance buildings on the land of the annual value of fifty shillings. The King is not an oppressive lord.

Then follow some eight tenements, paying most of them the same moderate ground rent and no other dues; a nobleman's chaplain has one house, Wibertus 'salvagijs' the next, a third is in the hand of one Osbert, who sublets a dwelling to Herebert the Chamberlain for fifteen shillings a year, and among the tenants of the others in King Edward's time were a cobbler and a priest. No. 10 is of some interest. It used to be the 'chenichtehalla' or knights' hall, where the gild of knights held their meetings, or, as the phrase was, 'drank their gild' (*potabant gildam suam*), and attached to it was a chapel. There was another 'la chenictahalla' higher up the street on the same side, in the Confessor's time, but both are in the hands of private tenants in Henry's reign. Whether or no the knights' gild was the same as the merchant gild is a question to which we must return later.<sup>1</sup> What concerns us now is that the 'knights' held the property from the Confessor 'libere', i.e. without service or payment of rent. It included a small chapel, and in Henry's time it has passed into the hands of four separate tenants with a total rental of fifty-two shillings, but they claim to be free from ground rent to the King on the strength of his writ which they hold.

Before reaching Godbegot House, after passing half a dozen houses in the hands of substantial tenants, we come to a group that might make us think we were in a squalid area. The first is a house that had been given to the Monks of St. Swithin. They may have converted it into an almshouse; 'one

<sup>1</sup> See p. 71.

good citizen used to dwell there, now poor'; next door is much the same, 'once two good burgesses, now none but poor', and in the third 'one good citizen dwelt there, now no one'. But as we go up the street we find business premises adjoin poor men's houses. The next tenant is the same son of Ralph Rosel that we have met before. He has illegally enclosed a strip of the King's way, two feet wide, along the whole frontage of the house, probably on Parchment Street, and besides that the King's 'balche' where thieves were imprisoned. The holding is a valuable business property; it includes the site of eight butchers' stalls, and the annual rent pocketed by Rosel's son is the large sum of nine pounds. Godbegot, or, as the Survey writes it, Godebiete, is a little above. The area includes a chapel and three houses, one of them occupied by the priest. The three houses are built on land which the provost of King Edward's time, Adelwold, had enclosed from the King's highway, apparently St. Peter's Street, and had presented to his parents, who let them as lodging houses. Strangest of all, 'the chapel attached to the house includes two eschamels (stalls) which used to be on the King's highway, and paid a weekly rent of two pence each'.

We may stop at Godebiete and for the rest of the street content ourselves with the Commissioners' summary. King Edward had sixty-three tenants in the street; since his day twelve tenements had been destroyed for the Conqueror's palace and of the rest King Henry is receiving his dues from only seventeen. But he is not the only landlord, there are also 'the lands of the barons and tenants', a dozen of them, some of them private individuals, but among them in High Street are the Bishop, the Abbot of Hyde, and the representatives of Queen Emma, the mother of the Confessor. The Bishop's survey, forty years afterwards, shows, besides the King's tenants, the Bishop himself, the Prior of St. Swithin's, the Abbot of Hyde, the Provosts of Worthy, the Canons of Cirencester as landlords in Tanner Street alone. But we see enough to show us the position of the King in the City. He is the owner of all the soil of the City not occupied by buildings; all streets, even side



streets, are 'the King's way'; even a stall could not be set up without paying to him 'picagium', or payment for breaking his soil; he owns a part of the land, but not all, on which houses are built, from which he receives a moderate ground rental; the tenant has security of tenure and can dispose of the buildings on the land and his interest in it, and he may draw a rent from it far greater than the King's ground rent. But the King is not the only owner of the land, there are others who are called 'barons and tenants'. The origin of these barons we have no means of knowing, but as the word implies not necessarily a great military lord but essentially one who held from the Crown, it is probable that they held their land by virtue of grants made by the Crown to their ancestors in former centuries. At the same time, though owners exist who do not hold, or have ceased to hold, from the Crown, the greater part of the land occupied by buildings, and all the streets and lanes, are the King's.

There is no historic evidence, or even probability, that Winchester ever was a royal manor. Too much of the land had been alienated to, or was in the possession of, individuals and corporations, and the place was from the earliest times too populous, and its organization too complex, for this to be likely. Nor is the fact that streets and unoccupied ground belonged to the King evidence that the Crown once owned the whole of the soil but that its ownership had been reduced by the grants it had made. Rather it is the reverse; the tendency was for the doctrine of the King's ownership of unoccupied soil to grow; it was a theory that might be of convenience to burgesses, and does not necessarily prove an original unlimited ownership by the Crown.<sup>1</sup> The essential feature, too, of a manor, tenure of land by service, is entirely absent, all tenure is paid for in money rent. London also was never the King's demesne. Other towns did originate from manors, of which the King, or a neighbouring bishop or earl, was lord. Exeter was believed to be 'auncion demene ... the

<sup>1</sup> See Maitland, *Township and Borough*, pp. 73, 84.

Kyngis cite longyng to his crowne'.<sup>1</sup> So was Oxford. Beverley was the manor of an ecclesiastical, Chesterfield of a lay lord. But what is said by Maitland<sup>2</sup> in reference to Cambridge would apply to Winchester. 'These old county towns do not pass through the manorial phase. The King was their lord but not their manorial lord.' At the same time the King's claims on the City in matters other than land tenure are analogous to those of a lord on his manor. He received market dues and tolls levied at the gates, payment for the butchers' and other stalls set up in the streets, and the fines and issues from the City Law Court, the collection of all of which was ultimately made by the citizens themselves, and the proceeds compounded for in a fixed annual payment to the Crown.

The second point which it is necessary to understand is through what officers the King exercised his control over the City, for it is in the series of advances by which the burgesses acquired the power of satisfying the claims of the lord of the soil, or claims analogous to those of such lord, through officers of their own choosing and an organization of their own, without interference from an outside authority, that the development of Municipal Government consists. For the collection of the rents from lands and tenements and dues from traders owing to the King from Winchester, his officers were originally the Sheriff of the County outside the City, the Provost or Reeve within it. In the twelfth century the City does not make its payments to the Exchequer as a separate and independent community. It makes them through the Sheriff of the County. It does not even always render account for the payments through its own officers. In the Pipe Roll of 2 & 3 Henry II, Turstin as Sheriff renders account for the County of Southampton and adds that the City owes twenty pounds 'in firma comitatus' as part of the fee farm rent of the County, the City being reckoned as part of the County. It is true that Stigand the Reeve, or Provost, of the City accounts this year for the City's share, but in the next year Turstin as

<sup>1</sup> *Shillingford Letters*, p. 76.

<sup>2</sup> *Op. cit.*, p. 98.



Sheriff accounts for both City and County, and this continues the practice till the end of the reign.<sup>1</sup>

The first step to independence is the King's grant to the City of liberty to collect these dues itself and to compound for them by a lump sum. In 1208 King John granted the City to the citizens for an annual rent of £142 12s. 4d.;<sup>2</sup> Henry III in 1228 reduced the amount to £80, and again in 1264 to 100 marks.

The importance of King John's grant is that for financial purposes the Sheriff ceases to have any position in the City. It was not merely a question of civic dignity; the Sheriff's control had proved in practice a sore burden, and the Charter of as early a date as Richard I, which ensures the citizens protection from his exactions, shows how much they felt the evils arising from their dependence on him.<sup>3</sup> But for some time the independence is precarious. At times the liberty of collecting its own dues was forfeited, and the King resumed direct control, putting in a 'custos' or warden to collect his dues.

In the third year of Edward I the City was taken over by the King, and Adam de Wynton collected the revenues as custos. The Black Book of Winchester (fol. 26)<sup>4</sup> gives a copy of his account from May 20 until Michaelmas, when he is succeeded by Hugh de Dinneton. Dinneton's account appears in the Pipe Roll of 4 Edward I under the heading of 'Suthamptonia', the City being for the time merged in the County. He accounts for his receipts from the 3rd September 1274 to the 26th January 1275, the day on which he delivered up custody of the City to the citizens, the receipts including rents and dues from butchers' stalls, for bread sold 'ad fenestras', i. e. at the baker's shop-front, from weavers, fullers, and tanners, items of revenue which when it was free the City collected for itself. For the rest of the year, after its liberty

<sup>1</sup> *Baigent Papers.*

<sup>2</sup> *V. C. H. Hants*, v. 23.

<sup>3</sup> See below, p. 31.

<sup>4</sup> The Black Book of Winchester (now in the Library of the British Museum) consists of extracts from the proceedings at the Burgh-mote. My references are to a transcript of it made by the late Mr. F. J. Baigent and now in the possession of the City.

has been restored, the City pays £50, the proportion of the hundred marks due for the three-quarters of the year of its independence. The liability to summary confiscation of liberty and return of the hated control of the Sheriff is illustrated by an incident in the thirty-third year of Edward I, when Laurence de Anne was Mayor. A prisoner, one Bernard de Pereres, who had been security for the fidelity of the city of Bayonne,<sup>1</sup> is committed by the King to the custody of the citizens. He is allowed to escape, and the Mayor, one of the Bailiffs, Thomas de Holeputte, and seven citizens, go to London to answer before Parliament for their neglect. They are all committed to prison as being responsible for their city. The Sheriff is ordered to take the City into the King's control (*in manum regis*) and administer its revenues, and to send to Westminster the second Bailiff, Henry Dalrun, who had stayed behind at Winchester. The offenders make their peace with the enormous fine of 500 marks; they are released and the City's liberties restored. The fine is granted to Queen Margaret, Edward's second wife, and she, 'out of the affection she has for her citizens of the aforesaid city', remits 300 marks of the fine, and the balance, 200 marks, is to be raised for her needs at her pleasure.

Whether or no the King's action was in revenge for what happened in the preceding year, an event of that year gives the opposite side of the picture. A tallage had been levied on royal domains, and Winchester compounded for its share for 200 marks and made fine for that amount before R. de Abyngdon and other Barons of the Exchequer. Edmund of Clopham, apparently himself a citizen, was sent to Winchester to assess the shares of individual citizens in this sum. The City resented this interference with its right to collect its own dues, and Roger de Inkepenne, Laurence de Anne the next year's Mayor, one of the bailiffs for next year, and twenty-two prominent citizens, '*collusione inter eos habita*', ejected Edmund from the community and liberty of the City and finally imprisoned him for eight days 'in contempt of the King

<sup>1</sup> Milner's *Winchester*, i. 206.



and to the damage of Edmund', a damage estimated at 200 marks. Edmund prosecuted them at Westminster. Fortunately the King's own Charter had exempted citizens of Winchester from pleading outside the walls of their own city. The defendants appealed to this Charter, and their appeal was allowed and Edmund's case dismissed with directions that he must bring it before the King's justice, R. de Abyngdon, at his next visit to Winchester to hold the assizes.

The right of the City to collect itself the King's rents and customs, and to pay a fixed sum to the Exchequer for them, relieved it from interference by the Sheriff. The Sheriff, however, was still the channel of control where the City was in default or in cases not covered by its right to return the King's writ, a right which entitled it, when a King's order was imposed upon it or inquiry made of it, to give its own answer or explanation direct to the King's Court at Westminster without having to go through the Sheriff of the County. Except for cases of default such as have been described, and for visits to the City on County business at the assizes, and later at the sessions, or in connexion with certain property still held by him in the City, the Sheriff ceases to have official position within the walls. He is still a powerful neighbour and to be treated with respect, and, as we shall see, like all powerful neighbours with whom it was wise to keep on good terms, he comes in for his share of City presents and hospitality.

The composition of a hundred marks, which would have been a moderate sum in the days of the City's prosperity under the Norman and early Plantagenet kings, proved more than it was able to bear at a later date, and it was reduced under Henry VI by forty marks, and further reduced by subsequent allowances till it reached vanishing point in the eighteenth century. But the fee farm rents which it represented continue to be received by the City, though the annual revenue is constantly being reduced by commutation, and the King's market and other dues which once formed the main part of the total have long since disappeared. A sum of £9 15s. 10d. is still collected by the City from owners of lands subject to the

charge, but this includes some rent from property subsequently acquired.

As long as the fee farm rent was at the disposal of the Crown it was used not in aid of national revenue but in the discharge of the King's personal obligations. Edward III granted the whole of it to his mother, Queen Isabella, for her lifetime, and it was paid direct to her by the City Bailiffs,<sup>1</sup> and in 6 Henry V there was a charge on it of £31 for the benefit of Queen Joan, second wife of Henry IV. During the next two reigns it was treated as part of what would one day be called the King's civil list, and pensions and grants were made from it for the payment and reward of services. In 14 Henry VI £20 a year was granted to W. Brugges, Garter King of Arms, during the King's pleasure, for good services; in 26 and 27 of the same reign J. Burley and W. Shirley, 'valetti de corona regis', had sixpence a day for life, and later in the reign such grants became very common. Edward IV used the rent for salaries to King's officials at Westminster, and the early Tudors treated it as a fund for the payment of pensions and annuities; the most celebrated case is the grant of fifty marks to the Marquis of Winchester in 1551, a grant which is paid yearly to the Marquis by the City to the present day.

<sup>1</sup> Charter of 1 Edward III.



## II

### BEGINNING OF THE MAYORALTY

WE have said that though Winchester was never a Royal Manor, the relation of the King to the City was analogous to that of a lord to his manor, and we have seen in some detail how far this was true of the chief of a lord's rights, the ownership of the soil. We have seen also that the claims which this ownership implied were compounded for at a fixed sum, that the collection of the rents and the payment of the composition was left entirely to the City, and that the freedom from the interference of the Sheriff of the County so gained marked the most important stage in the development of municipal life.

A second right of a lord in his manor was the appointment of a reeve, bailiff, or steward, to represent his interests; a duty which consists in holding his court and seeing to the payment of rents and services owing to him, and the collection of the market and other dues which belonged to him. Do we find any such officer in Winchester, and is there a gradual change in the conditions of his office similar to the change we find in the system of payment and collection of King's rents? After the Conquest Winchester was under the government of a King's officer called 'gerefa' or 'reeve'. The corresponding Latin term is *praepositus*, the French *provost*, and as these are the terms used in our documents, I use the term 'provost' for this officer in preference to that of 'reeve'. The Winton Domesday<sup>1</sup> speaks of Adelwold as Provost in the reign of the Confessor, and Warin as Provost at the date of the Survey, in the reign of Henry I. The Charter of Richard I (1190) provides that offenders against the liberties of the merchant gild are to be distrained by the Provost of Winchester (the King's representative in the City), or by the Sheriff of Southampton (his representative in the County). In some towns, Dover for instance, the Provost is called the King's Provost, the qualification to the title marking the

<sup>1</sup> Domesday Addit., p. 532 B.

dependence of the town on the King; or he is employed, as escheator, on business that shows he is acting for the King, as at Chester, where he receives, 'in manum Regis', the lands of a tenant returning at his death to his lord, and at Winchester, as we have already seen, he receives for the King the dues from butchers' and other traders' stalls in the High Street.

In the twelfth century we had in Winchester a provost who is head of the City government and acts for the King; in the fourteenth century the head is a mayor. He is never called 'the King's mayor', and though official communications are addressed normally to the Mayor and Bailiffs, the Mayor is always mentioned first and treated as Chief Magistrate; the name provost has disappeared completely, and we are made to feel that the Mayor is not addressed as the King's representative, but as the head of a body that has an independent existence of its own, free from the direct supervision of a King's nominee. We want to ascertain what this change meant exactly, and how it was brought about.

The traditional date of the birth of the Mayoralty of Winchester is 1184, and in 1884 the 700th anniversary of so striking an historical event was celebrated by a pageant, representing scenes from civic history, drawn through the streets of the City. For it was a great occasion; was it not the anniversary not only of our seven-century-old Mayoralty, but of the institution of the Mayoralty for the Kingdom at large? London did not have its first Mayor, Henry Fitz-Alwyn, till 1188; indeed the earliest mention of a Mayor of London by a contemporary chronicler (Roger de Hoveden) is for the year 1193; ours was therefore the premier Mayoralty of England. The authority for the date is John Trussel, an antiquary of the reigns of James I and Charles I. Trussel was Mayor of Winchester in 1624 and 1633, and wrote in 1642 the *Touchstone of Tradition*, the manuscript of which is in Lord Mostyn's collection. The second book of this work gives a list of the Mayors of Winchester, starting with one 'Florence de Lunn', who is represented as being the first Mayor of Winchester in 1184, and Florence de Lunn was a prominent figure in the com-



memorative celebration of the 700th anniversary of the Mayoralty. The late Mr. F. J. Baigent turned the merciless light of research on Trussel's list, and in a letter to the Mayor of Winchester of the 27th February 1884, and published at the time, he showed from the Pipe Rolls and Patent Rolls that there is no mention of a Mayor of Winchester earlier than that contained in a letter or mandate of John issued in the first year of his reign (5th April 1200), addressed to the Mayor and Commonalty of the City of Winchester;<sup>1</sup> that there is no evidence of the existence of any such person as Florence de Lunn, and that in this as in other cases Trussel has antedated the Mayoralty of men who held the office a century or more later. 'Florence de Lunn' is almost certainly an error for Laurence de Anne, who was Mayor in 1284 and subsequent years; just as 'Roger de Long' 1196, 'Edward le Draper' 1197, 'John Gabriell' 1198, are misplaced or misnamed fictions for Roger Long, Mayor in 1318, Edward le Draper in 1319, John Gabryel in 1320.

This does not, of course, prove that Winchester had no Mayor before 1200. When exactly mayor took the place of provost we cannot say. The title was not granted by definite charter as it was to London. We have no charter conferring such a title, and even if such a charter had been granted and had been lost, its provisions would have been embodied in the first charter of the next reign, that of 11 Henry III, which regranted to the citizens the liberties they had already gained. Mr. Baigent thinks it more probably was gained by prescription, the new title taking the place of the old, the old being revived for a time until the new finally wins its permanent place. This is confirmed, he adds, by the fact that in the Charter of 17 John (18th July 1215) the Chief Magistrate of Winchester is called the 'provost', though we know 'mayor' was in use fifteen years earlier. But there always was one officer or more charged with the King's interest; as we shall find later, such officers bear interchangeably the names not of mayor and provost, but of bailiff and provost, showing that the office of

<sup>1</sup> Charter Roll, 1 John, p. 2, m. 26 d.

provost became merged rather in that of bailiff than in that of mayor, and it is more in accordance with the facts to suppose that the office which carried the name of mayor was a new one than that mayor was a title that gradually displaced the name provost for the holder of an office that had existed all along. There is among the documents preserved in Winchester College a charter dealing with the Manor of Huntbourne; two of the witnesses are judges, the interval between the appointment of whom and their death fixes the date between 1217 and 1229; the third witness, William de Sorwell, is described as Sheriff (*vice-comes*) of Winchester. It can hardly be an error for Sheriff of the County; the charter is too brief and too carefully written for such a mistake; nor is de Sorwell among the known Sheriffs. Is it possible that for a time the new head of the City, who now represented the City in relations which had formerly been filled by the Sheriff of the County, for a time was actually called sheriff alternatively with mayor? An isolated instance cannot be conclusive, but it is consistent with what we otherwise know that in getting their new chief magistrate the citizens should have felt they had a sheriff of their own, and for a time so called him. It may even be possible that the magistrate afterwards called mayor was at first a deputy of the sheriff elected by the citizens.<sup>1</sup> Without some such gradual transference of functions it is hard to understand why so radical a change in the constitution of the City is entirely passed over in the Charters. We shall find, too, that the positions of mayor and provost differ essentially; those of provost and bailiff do not. In any case the change of title of the chief magistrate coincided with the change of status that came from towns obtaining the right to have a chief magistrate of their own choosing and to be free from the control of the Sheriff of the County. The end of the twelfth century is an epoch in municipal history; it was a time at which towns were acquiring the right to elect their own chief officer, whether he were called mayor or provost.

<sup>1</sup> Since this was written I have learnt that William de Schorwelle was under-sheriff for Hants in 1217.



A charter of Richard I granted to Lincoln in 1194 contains the clause 'cives Lincolnie faciant prepositum quem voluerint de se per annum qui sit idoneus nobis et eis'.<sup>1</sup>

The citizens of Winchester, in reply to the Court of Exchequer in 1323 asking by what right they elected a mayor, answer that it had been their usage to elect from among themselves a mayor 'from a time beyond the memory of man'.<sup>2</sup> The formula implies that no grant was known, but it is consistent with the existence of the right in the reign of King John. In the country generally the use of the title mayor becomes increasingly common with the opening of the thirteenth century, and the Patent and Close Rolls show that in John's reign nine towns had mayors.<sup>3</sup> What is certain for Winchester is that it had a mayor in 1200, that he was at that time, or shortly afterwards, chosen by the citizens, and that the name provost continued to be applied for a time, until it made way for that of bailiff, to officers entrusted with the safeguard of the King's financial and other interests in the city.

The first Mayor whose name we know was Elias Westmann, and he appears to have held office for many years, just as Fitz-Alwyn of London held office for nearly twenty-five years. Westmann was a wealthy man, an importer of wine; in December 1207 the King wrote to the Barons of the Exchequer 'know ye that we have pardoned Elias, Mayor of Winchester, the six marks whereof he was amerced for the over-selling (*super-vendicione*) of wine'. On the 9th November 1215 the Sheriff of Southampton (i.e. of the County) was ordered to give to Elias Mayor of Winchester the land that belonged to Henry de Braiboef in Cranbourne, with all the appurtenances, granted to him by the lord King. King John, on the 19th June 1216, intimates that he had granted to Elias Westmann, Mayor of Winchester, letters of protection directed to Reginald de Pontibus, seneschal of Poitou and Gascony, and to the Mayor and proved men of Rochelle, and to all his bailiffs and faithful subjects; the letters were required to save him from

<sup>1</sup> Stubbs, *Select Charters*, p. 259.

<sup>2</sup> Baigent Papers.

<sup>3</sup> *E. H. R.* for 1899, p. 99.

being sued when out of England. Elias Westmann was still holding the Mayoralty in 1223 and probably continued in office till 1225.<sup>1</sup> The Usages of Winchester, to which we shall immediately have occasion to refer, represent the Mayor as removable from year to year, but in the first half of the thirteenth century the office was often held for quinquennial periods—John Edgar, for instance, is Mayor from April 1236 to February 1241, but this of course is not inconsistent with annual election.

The distinction between mayor on the one hand and provost or bailiff on the other is an essential one, and helps us to understand the real development which took place in town government at this period. The more closely we examine the records left to us the clearer it becomes that the mayoralty is the symbol and proof of the city's autonomy. Some light is thrown on the question by a document which is little known, except to historical students, but is of prime importance as an authority on the constitution of Winchester in the thirteenth and fourteenth centuries.

There are preserved in the City Archives two copies of the 'Ancient Usages of the City of Winchester'; they are full of defects and for a long time were the only copies of the 'Usages' known to be in existence. But in 1852 Mr. Gunner, then a master of the College and an active antiquary, discovered in the muniment room of Winchester College an Anglo-French copy of the same 'Usages', made a full century earlier than either of the English versions. It is a beautifully written document in the handwriting of the late thirteenth century, and cannot belong to a date much later than that at which the Usages were originally drawn up. There is some reason to believe that that date was before the year 1275, for there is recognition in it of the dilatory custom of 'forking by coparceners' as a proper cause for delay, and this practice was forbidden by the Statute of Westminster of that year.<sup>2</sup> Smirke described it in the

<sup>1</sup> F. J. Baigent, in letter published in *Hants Chronicle*, 27 Feb. 1884.

<sup>2</sup> Smirke—but Miss Bateson (*Borough Customs*, Selden Society, vol. 18, 1904, i, p. lvi) points out that this is not conclusive, as the practice is known to have continued after the passing of the statute.



*Archaeological Journal* of 1852 (ix, pp. 69-89), and a transcript and translation of most of the latter part, which deals with legal procedure, has been given by Miss Bateson in vol. i of her *Borough Customs*. Just before the war a German scholar, Herr Engeroff, who visited Winchester, made a careful comparison with the English versions and published the result, with some characteristic suggestions for emendation, as a thesis for his doctorate at the University of Bonn.

It is probable that the original was in Latin, from which the Anglo-French version was a translation. But in the late fourteenth and early fifteenth centuries, when the two English versions in the possession of the City were made, Anglo-French was ceasing to be generally understood. We have the statement of John de Trevisa, the translator of Higden's *Polychronicon* (1387), that the practice for children in schools to translate Latin into English instead of French as formerly, which began in 1349, was complete in 1385. A Statute of 1362 declares that French was little understood, therefore pleadings are to be in English.<sup>1</sup> The law, however, was 'tardily obeyed'<sup>2</sup> and French remained for a long time the language of pleadings, though English was that of argument in law. The words of the author of the B text of *Piers the Plowman* (1377) seem to imply that it is little known. Of the Clergy of his day he says:

ne nouȝt on amonge an hundreth that an auctour can construe,  
ne rede a lettre in any langage but in Latyn or in Englissh!<sup>3</sup>

In any case the use of Anglo-French did not cease abruptly. Conveyances of land held by Winchester College, I am informed by Mr. Chitty, the Bursar of the College, are frequently made out both in Latin and in French, some of them being as late as the reign of Henry IV, and in the Black Book of Winchester it is recorded in Latin that a petition is presented in a Burghmote of 12 Henry IV, 'gallicis verbis', and the petition in French is given at length. There certainly should have been no difficulty in finding a translator familiar with French, yet

<sup>1</sup> Pollock and Maitland, i. 85.

<sup>2</sup> Maitland, in *Camb. Hist. of Eng. Lit.*, i. 409.

<sup>3</sup> B xv. 368.

the City's two English copies of this important record of Winchester custom are full of ludicrous errors, and it is hard to understand how the translators' employers, the City rulers, could have accepted them as of any practical use for reference. The conclusion of the roll of the earlier of the two versions is characteristic of the light-hearted scribe's attitude to his work. It is a Latin rhyming hexameter,

‘Explicit hic totum, per Christum da mihi potum’  
as we might render

‘My job’s done here, for Christ’s sake my beer!’

I am tempted to quote some examples of his translation. The third paragraph of the Usages begins ‘derechef en la cite’ (*derechef*, = ‘furthermore’, occurs over and over again in his original); it is translated ‘off the hevedes of the cite’; ‘ustil’, a loom, becomes ‘hows’, as if it were ‘ostel’; ‘al us le mere’ (for the Mayor’s use) is ‘to the Mayre’s hows’; the qualification for admission to the gild merchant is ‘chescun de ceus eit en chatel quatre livres vaillant’, i. e. property to the value of four pounds, but the translator requires them to have ‘foure hynen (servants) stalworthe’, as if ‘livres’ were men in livery; ‘quand len avera beu gilde markande’, ‘drinking the gild’ being the regular formula for holding a meeting of the gild, is rendered ‘well trewe ychaffared’, as if ‘beu’ were ‘ben’, and ‘markande’ were a past participle; the City seal, which is to be kept ‘desuz trois clefs’, is with the translator to be ‘under thre hevedes’, ‘clefs’ being misread ‘chefs’. The second English copy is a more serious work, and this translator has made obvious attempts to mend what is unintelligible in the work of his predecessor.

The ‘Usages’ must have had legal authority in many spheres of civic life, the appointment and duties of officers, the control of trades by their guilds, the scale of tolls levied on merchandise, the transfer of property and procedure in the courts; and it is surprising that the municipality should have been content with so worthless a record as the English versions made for them. But the fifteenth century begins a period of



municipal decadence, when the councils of the city were more concerned with trivialities such as the order of processions, the dignity of the mayor, the importance of Sunday closing, than with the necessity of preserving an accurate record in an age of decaying knowledge.

The Usages, in the Anglo-French version, give us a picture of municipal practice and regulations at the end of the thirteenth century and the description of the position of the mayoralty, in the early days of its existence, is a very definite one. 'There shall be in the city', it says (§ 2), 'a mayor elected by common consent of the twenty-four jurats and the commonalty, principal sustainer of the franchise'. The twenty-four are his advisory council, and they again must 'loyally aid and counsel the said mayor in keeping and sustaining the franchise' (§ 3).

Nothing is said of the Mayor's duty to the King except (§ 2) he shall 'receive no plea, nor plead any of himself, that touches the provosty of the City'. The 'provosty' stands for the King's authority and interest in relation to the City, especially his financial interest, and in the Black Book of Winchester (fol. 19 a) the King's dues paid to the Bailiffs to make up the ferme of the City are said to be paid 'prepositure seu provestriedicte civitatis'. For a fuller statement of his duty to the King we must turn to the Mayor's oath,<sup>1</sup> which he takes on entering office. He there swears that he will keep the City surely and safely to the profit of the King; that he will not connive at or aid in anything that would impair the King's interests in the City, anything tending thitherward which he cannot himself prevent he will reveal to the King or his Council. The rest of the oath is a declaration of his duty to his fellow citizens, that he will do equal justice to rich and poor, that he will not swerve for hatred or favour, above all that he will be vigilant in protecting their interest against the purveyors of the necessities of everyday life, enforcing the assize that is to regulate their price and quality.

The two pictures offered by the Usages and by the oath give

<sup>1</sup> Black Book, fol. 1. a.

the two sides of the Mayor's work; the one draws larger his duty to the King, the other his duty to the City, but it is the latter that is more before the eye of his fellow citizens, and it is the duty of himself and his advisers to maintain the franchise that is made prominent in the Usages. The 'franchise' was everything to them; it was the name for the whole body of privilege and right that had been accumulated by a series of concessions, grants, and recognitions of local custom expressed in the Charters granted by successive kings. 'Franchise' means 'liberty'; 'the liberty of the City' comes to mean the same as the rights of the City, and gets even a physical or geographical meaning; a spot is 'within the liberty of the City' in the sense that it is within the space that the City claims to be both under its jurisdiction—and entitled to enjoy its privileges. The Mayoralty came into being at a time when these rights had been newly won or newly formulated; the Charter of Henry III (1227) may be taken as marking the date when the franchise was practically complete; the subsequent Charters of Edward I and Edward III are in the main recitations and confirmations of what had been already granted, and themselves add comparatively little. At the end of the thirteenth century the franchise was a new acquisition that needed safeguard. It was no meaningless phrase when the citizens spoke of the Chief of the City as the 'saver and sustainer of the franchise', it was felt that there was need of a champion and spokesman in maintaining the advance that had been gained. The powers on which they had once been dependent were still dangerous; the King, as we have seen, might by writ or letter suppress for a time local self-government, the battle against the Sheriff had only just been won, he still had business within the City which might lead to extended interference, and the knowledge that there was danger made the City value its Mayor the more. He represented the citizens, it was to him first that all communications were addressed, and they felt that he was the City's man, not the King's man. Among all the officers there is none who receives the same affectionate respect or finds the same scrupu-



lous care taken for his dignity as the Mayor. In the fifteenth century there are many ordinances of the Burgh-mote against word or act that would disparage him. The Mayoralty is the ultimate prize of the ambitious citizen; the office of Bailiff is an office of servitude, that of Mayor is an honour, and it is significant that as a rule a prominent citizen was Burgess in Parliament several years before he attained to the mayoralty.

Langland's *Piers the Plowman* is a faithful mirror of the thought of the common people of the time, and the expression used more than once in the poem of the Mayor—that he is a ‘mean’ between the King and the commons—agrees with what we are able to learn of the position of the Mayor at Winchester.

For-thi is loue leder of the lordes folke of heuene  
And a mene, as the maire is, bitwene the kyng and the comune.  
B i. 157-8.

The mayoralty was a mean or a link in that it secured a more ready acceptance of authority when the commons realized that authority was exercised through a magistrate of their own choosing, who was the official champion of their rights, and who, when he recognized in his oath his duty to the Crown, recognized also as an equal part of it the obligation to see that justice was done to the meanest of them, even in the price of their meat and drink. The Crown on its side was the gainer by having a link which made it easier to give to the use of authority the appearance of acting with the consent of the governed. It made easier what might have been a cause of friction. The direct interference of the Crown in town administration was a regular feature of the Middle Ages. Partly it was exercised through officers of the Household;<sup>1</sup> the character of the Court therefore influenced local government, and under a weak King like Richard II a deterioration at the centre made itself felt in every community in the country in a way that could provoke opposition. Less harm would be done in a community that had a Mayor entitled to resist encroachment and that was accustomed to defend

<sup>1</sup> See below, p. 158.

its liberties in Parliament or the King's courts at Westminster. A royal writ also addressed to the Mayor and Bailiffs might come to a town requiring them to remedy any point of misgovernment or neglect, and a city like Winchester was in a very different position when it had the right of making the reply itself than when it had to go through the Sheriff. At Oxford, where, owing to the divergent interests of Town and University, appeals to the Crown from the latter bring a regular stream of writs, they deal with even the humblest details, the purging of the streets or the supply of bread, and inquiries by the Sheriff into the conduct of City matters are often ordered by the Crown. At Winchester such interference was much rarer,<sup>1</sup> and only in case of default could it be made through the Sheriff. Self-government and its consequence, the willing acquiescence in government, was to the advantage both of King and commons.

At the date of the 'Usages' the election of Mayor was at the Michaelmas burgh-mote. He is chosen 'by common consent of the twenty-four jurats and the commune' (§ 2). The two Bailiffs are chosen at the same time, but in a somewhat different method; the jurats nominate four 'prudeshomes' of whom the commonalty chooses two, whereas in the election of Mayor the jurats nominate a single candidate and the commonalty assents or dissents. When elected, the Mayor has to go to Westminster to take his oath of allegiance before the King's justices in the Court of Exchequer, and a regular allowance to him of forty shillings for the purpose appears in the account rolls. He was presented by two of his fellow citizens, usually ex-Mayors. In 1 Richard II the Bailiffs and the whole commonalty notify the Treasurer and Barons of the Exchequer that they have elected Gilbert Forster to be their Mayor, presenting him by Thomas Smythe and Edmund Pycard, their fellow citizens, praying he be admitted. In 16 Richard II, when Parliament was held at York and the Barons of the Exchequer have followed the Court there, the Mayor is excused from so long a journey and allowed to make his oath

<sup>1</sup> See below, p. 35.



in Winchester before the Sheriff of the County, paying one mark as fee.

We have reached, therefore, in the thirteenth century, the completion of the second stage in the independence which Winchester, in common with other towns, has gained. It collects its own revenues, and appoints its own magistrates; its magistrates are the accepted channel of communication with the central authority, and it is released from interference by the County Sheriff.

### III

#### THE CHARTERS

FAR the most valuable part of the history of the growth of the liberty and independence of the City is that derived from the Charters. The rights of every city or borough were mainly customary, those that it had enjoyed in past times, and its Charters guarantee to it the continuance of that enjoyment. The constantly recurring phrase 'according to the custom of the City' is not a meaningless form, it is the definite recognition that local custom is the basis of right, and that there is no intention on the part of a central authority to alter it and make it conform to the custom of other places or a general custom common to the whole land. It is true that there is a tendency in legal matters for the principles and procedure of the King's courts to override and take the place of those of the local courts, and for the Crown to increase the number of matters reserved as 'pleas of the Crown' for decision by its own justices, a tendency which has at last ended in producing complete uniformity. But in the period with which we are dealing this tendency had not very deeply affected the individuality of separate towns; it begins in the reign of Edward I,<sup>1</sup> but the uniformity of system that came from the imposition of national law upon the traditional local custom was the gradual work of a later age. What was the law of one locality was not necessarily that of another. The law of inheritance and succession was quite different in Kent, where, by the custom of gavel-kind, landed property was divided equally among all sons, from that which held in the rest of England; the right of a husband in his wife's property on her death varied in different places. At Winchester the procedure necessary for the recovery of a tenement was different from that of other towns; the City had its own

<sup>1</sup> Pollock and Maitland, *Hist. of Eng. Law*, i. 184.



practice of summons, adjournments, and essoins, all of which are described in great detail in the 'Usages'; certain barbarous practices in criminal law had been suffered here which were not allowed elsewhere,<sup>1</sup> and the privilege of being sued for debt only in his own town, if the debt was there incurred, could be claimed by a merchant of Winchester though he might deal with a merchant from another town whose Charter had not secured for its burgesses the same privilege. What is true of law is true also of administration, every town had its own method and it might or might not be the same as that of its neighbours. In our own day we are familiar with central legislation, which applies equally to all localities, and with a bureaucracy which enforces uniformity in administration. But such a thing as a Local Government Board, or the Ministry which has succeeded it, would have been inconceivable in the Middle Ages; uniformity was not consistent with the historic origin and development of institutions, nor was machinery in existence to secure it. Winchester had its own way of protecting its citizens against adulteration of food or short measure and light weight; so had other towns, but they were not exactly the same, and none depended on having behind them a Weights and Measures or a Food and Drugs Act enforced by a Central Authority. Interference by Central Authority in local government there is, but it is by royal writ requiring the local magistrates to see that right is done in particular cases, not by general enactment. A man's civic liberties and responsibilities depended not on a common right but on local custom; but the progress of history has been to substitute, for custom and variety, right and uniformity.

But while much of this variety was due to the terms gained for itself by a town in its own individual Charter, one thing made for uniformity, and that was the tendency of Charters to be grouped in families. When a Charter was granted to a borough the form in which new rights were given was often

<sup>1</sup> For instances of local custom and privilege see *V.C.H., Hants*, v. 44-6.

by provision that it should have the same privileges as those already enjoyed by some other town, Winchester, London, or Lincoln, it might be, and a Charter of one of these towns served as the model. Winchester, for example, is parent to Wallingford, Portsmouth, Taunton, Andover, Wilton, Marlborough, and even Newcastle-on-Tyne, and Borough Charters form family groups distinguished by the features of the model from which they are derived. The burgesses of Andover 'shall be quit of toll and passage and customs throughout the whole of my land as the burgesses of Winchester are quit who are of the Merchant Gild' (1175); Burford shall have 'the gild and customs which the burgesses of Oxford have in their Merchant Gild'; at Newcastle 'no man shall be judged of an amercement of money except according to the ancient law of the City of Winchester which they had in the time of our ancestors' (1216, following the Winchester Charter of 9 John). But even so, after adopting the custom of another town, there is sure to appear a clause saving local individuality by a proviso that the burgesses should not be disturbed in the rights that they themselves had enjoyed in former days.

Again, so far are the Charters from laying down general principles of justice that they invariably confine themselves to the granting of a particular claim or the remedy of a particular grievance. The citizens of Winchester find that an old custom has been violated, or that the expansion of their trade has brought points into question in which their interests are concerned but on which there is no authoritative ruling to protect them; the Sheriff of the County is exacting what amounts to a forced 'benevolence', merchants on their journeys find themselves charged 'pontage' or 'lestage' by the magistrates of seaport towns. They apply to the King for a statement of their rights, and Henry III, in the Charter which he gives in answer to their appeal, does not define in general terms what are the powers of a Sheriff, or give any general principle for transit or import duties; he merely says that the citizens of Winchester are 'quit of toll, lestage,



pontage and passage in all ports of all our lands as well this side of the sea as the other', or that they are free of the particular exactions of 'scot-ale' and 'yeresgive', and no Sheriff has the right to demand them.

What is it that our Charters gave to Winchester? There are nine of them in the possession of the City that are dated within the period we are now considering. The first Charter that we have, and it is endorsed in a fourteenth-century hand 'prima carta' implying that at that time no earlier Charter was known, is dated at Salisbury and was granted by Henry II some time between the years 1155 and 1158, one of the witnesses being Thomas Becket. This is the Charter printed in the appendix of Milner's *History of Winchester*<sup>1</sup> and headed 'the (supposed) Charter of Henry I'. Milner has taken the text and the ascription of date from Trussel, but Trussel, as we have seen, is an inexact authority; in copying this very Charter he describes Henry as Count of Andalusia instead of Anjou, and, as Milner points out, his date is an impossible one. The Charter is very brief; leaving out the greeting at the beginning and the witnesses at the end, it consists of a single sentence, 'I order that my Citizens of Winchester of the Gild of Merchants be quit with all their goods of toll, passage and custom, and that no man interfere with them hereon or do them injury or insult on pain of forfeiture to me.' That is all; Winchester traders had been subject to these exactions in their visits to other places, they appeal to the King and obtain protection against this particular wrong by Charter.<sup>2</sup>

The second is also dated from Salisbury, and, like the first, must belong to the time of one or other of two visits of Henry II to Salisbury, either that of 1155 or of 1158.<sup>3</sup> It is nearly as brief as the first Charter; it is a grant to the citizens at large, and not, as the first, specially to the trading gild, and it is evidently occasioned by the wrongs suffered

<sup>1</sup> Third edition, ii. 300.

<sup>2</sup> For the text of this and the next Charter see below, p. 178.

<sup>3</sup> *City of Winchester Calendar of Charters*, by J. A. Herbert, 1915, pp. 7 and 8.

by the City in the unhappy days of Stephen. After providing in general terms for the maintenance of all liberties enjoyed in the time of Henry I, it deals with specific wrongs that the citizens had had to submit to in the recent times of misrule. They are assured the same security for their holdings, purchases, and mortgages that they had under Henry I; all customs unlawfully exacted in the disturbed times of Stephen are abolished and the position of their City as a trading centre is protected by provision for freedom of trade for outside merchants; subject to payment of the legal dues, they are to be free to come and go without molestation. The King makes himself responsible for the City liberties being respected, infringement of them is forbidden '*super forisfacturam meam*' (i. e. forfeiture to the King) or '*super hanc cartam meam*'.

So far it is as a trading community that Winchester has benefited by its Charters; the third (1 Richard I, 1190), a fourth, that of John, not now in the City Archives, but the text of which is given by Milner from Trussel,<sup>1</sup> and the fifth (11 Henry III, 1227), take us farther. They assure the citizens of certain personal rights which probably had been challenged—at least it was to their interest to have them definitely recognized and recorded. First is their claim to be tried in Winchester Courts alone. 'No one within the gild shall have to plead outside the walls of Winchester' says Henry III; all cases concerning contracts and mortgages made in the City are to be tried there. This does not include protection to a Winchester merchant visiting another town from arrest or prosecution for debt incurred there, but in general the principle of Winchester cases in Winchester Courts was an immense security and convenience. The right was asserted successfully even against the King himself, as we have seen, in the reign of Edward I,<sup>2</sup> and there was no right that was more zealously watched by the City governors. Winchester citizens are prosecuted for taking into the Bishop's Court, at the time of the Fair, an action which they had begun in the City Court, and the Black Book of Winchester contains

<sup>1</sup> ii. 301.

<sup>2</sup> Above, p. 10.



many instances in which men who have submitted their disputes to external courts have to make humble acknowledgement of their disloyalty. Secondly, citizens are free from any attempt to force on them ordeal by battle. Trial by battle was a continental institution and unknown to the Saxons.<sup>1</sup> The laws of William I allow it in cases, such as homicide, between an Englishman and a Norman, but the Englishman might refuse it if he wished. But there had been a tendency to force it on Englishmen even in cases of land tenure. 'It was one from which the English recoiled as an instrument associated with tyranny, if not devised for the purposes of tyrants; and the Charters of the time frequently contain a provision, dearly bought, no doubt, but greatly valued, that the burghers should not be liable to its use.'<sup>2</sup> Winchester is allowed the benefit of its immemorial custom; 'in all pleas pertaining to our Crown', which would include the more serious criminal offences, and certain cases affecting land tenure, 'they may defend themselves according to the ancient custom of the City'; a citizen is not to be at the mercy of the superior physical force or skill in arms of a Norman noble in a dispute about property. Thirdly, merchants of Winchester are secured against reprisals. If a visiting merchant left a debt unpaid in any town it was the custom in many places to wait for the next fellow townsman of the debtor who had the misfortune to come there and seize his goods in payment of the debt. Henceforth one merchant of Winchester is not to be responsible for a debt incurred by another; it is only the 'capital' or original debtor who is liable to distraint or arrest. Finally, the City is secured against exactions by the Sheriff.

We have spoken already of the City's relations with the Sheriff of the County of Southampton and of the mistrust and hostility to which they gave rise. In the thirteenth century there was a great deal of friction, and the trouble was not confined to the County of Southampton. A part of the

<sup>1</sup> Pollock and Maitland, *Hist. of Eng. Law*, i. 39.

<sup>2</sup> Stubbs, *Const. Hist.* i. 659.

Provisions of Oxford (1258) deal with the claims of the Sheriff on his county and define a limit to the demands he may make for entertainment;<sup>1</sup> the Sheriffs agree to take nothing by reason of their office except only eatables and drinkables which are usually carried to the tables of great persons and what are sufficient for one day only, nor may they have more than two horses at a hospice.<sup>2</sup> The particular exactions that galled Winchester people and are forbidden in our Charter are 'yeresgives' and 'scot-ale'. The Sheriff seems to have expected new year's gifts from the City much as the Roman Governors exacted 'strenae' (étrennes) from the provincials of Gaul. 'Scot-ale' was a form of compulsory entertainment to which towns had to contribute. London felt the burden of the exactions as well as Winchester,<sup>3</sup> and they are constantly mentioned in the Charters of other towns. Though such contributions are formally forbidden, the City still felt it desirable to be on good terms with her powerful neighbour, and 'exennia' or presents to the Sheriff occur many times in the accounts of the next century. Yeresgives, too, if Winchester was delivered from them, took a long time to disappear in the country generally; as late as the date of *Piers the Plowman* we find the author writing:

That fyre shal falle and brenne al to blo askes [blue ashes]  
The houses and the homes of hem that desireth  
giftes or 3eres3yues bicause of here offices. (B iii. 97 ff.)

This immunity is described as granted for the 'betterment' of the City. For its betterment also is the grant of the site of two mills at Coitebury. Coitebury was in Buck Street, now Busket Lane, and the mills situated on the branch of the river which crosses the High Street south of Busket Lane were used as fulling mills, for the final processes in the staple local craft of weaving. It is not clear whether the City built the mills at this time, all that is granted to them is the 'sedes' or site of the mills; at a later time we find mills there under the control of the City; they are let to fullers in the City, and in

<sup>1</sup> Stubbs, *Doc. Illustr.* 389.

<sup>2</sup> Bateson's *Leicester*, i. lix.

<sup>3</sup> *Mun. Gild. Lond.* i. 533.



1429, at the end of a lengthy account for repairs, a balance is left in the hands of John Clerk, Fuller, who is in charge of the fund. This is the first case of business premises coming into the hands of the City, but during the fifteenth century the acquisitions are very much extended.

The remaining Charters of the period are 'inspeximus' Charters; they recite earlier Charters and confirm them without, as a rule, adding of themselves any important new privilege. Edward I in 1290 recites and confirms the Charter given by his father Henry III; Edward II in 1324 recites and confirms both; Edward III in 1327 does the same for the two Charters of Henry II and for all the contents of the Charter of Edward I. Though this Charter is in the main only a confirmation of preceding Charters, Edward III adds to the grants of his predecessors two important provisions which in effect completed the independence of the City. The first is that the City, which had been held of the King and his predecessors, at the will of the King and his predecessors, in consideration of an annual payment of 100 marks, should now be held at fee farm in perpetuity, paying the same rent, and the qualifying clause 'at the will of the King' is left out. The rent is to be paid, for her life, to Queen Isabella, the King's mother, after her death to the Exchequer, and this is the beginning of the system described above,<sup>1</sup> under which the fee farm is used as a sort of King's civil list, out of which he makes grants to individuals. We have the Bailiffs' account for a year shortly afterwards (1354), in which the 100 marks paid to Queen Isabella appear on one side of the account, and on the other are the sources of revenue which represent the dues of the King now collected by the City itself, for which the composition of 100 marks had been made.<sup>2</sup>

The second provision is that the City has the right to make the return of all the King's writs and all summons from the Exchequer 'within the liberty of the said city'. To have the return of its own writs is another point made safe in the City's advance to independence. When a case is questioned by the

<sup>1</sup> p. 11.

<sup>2</sup> below, p. 179.

Crown or an order is addressed to the magistrates, the answer is given by them, or the reply to the writ is sent direct from the City Court to the Court of Exchequer, without reference to any officer or court of the County.

Finally, a second *inspeximus* Charter of Edward III (1336) similarly confirms his previous Charter, granting further immunity from some charges troublesome doubtless at the time, but 'barbicanage' and 'bretage' (dues for the upkeep of fortifications) are hardly of interest to us now. A few words, however, added to the clause are of more historical value, for they throw some light on the terms on which a Charter was obtained. The King grants the privilege, as he magnanimously says, 'that the aforesaid citizens may be able to give themselves with greater tranquillity to their affairs', but he also discloses that it is in consideration of 'a fine which they have made with ourselves'. King John extorted fines from boroughs '*pro habenda confirmacione cartae*', and the '*Inspeximus*' Charter of 17 Edward II is marked with the amount of the fine required from the City, twenty marks. For a similar charter in the previous reign the fine was twenty marks.

With the last of these Charters we may consider the City to have come of age. It is now very near to being an autonomous community. It appoints its own officers and collects its own dues with security that they cannot be increased in amount. It has its own Courts for civil and minor criminal business; 'pleas belonging to the Crown' are reserved for the King's Court, but debt and 'trespass', which includes most ordinary civil disputes, are entirely in its hands. It has its own registry and mode of procedure for the conveyance of land and tenements, and conducts its own correspondence with the Central Government, and it is free from interference by the Sheriff of the County. The Sheriff had still occasional business in Winchester; there are certain rents in the City which had always been paid in aid of the farm of the County, and these are specially reserved to him by the first Charter of Edward III; it might be necessary for him to be in the City at assize time to empanel a jury of Winchester citizens, and



there were still occasional duties connected with national business that brought him there. He was still, too, the executive officer of the Crown in case of default on the part of the City or its officers. As late as 14 Henry VI certain stores for which the Bailiffs were accountable, which they had received from their predecessors in office to be used in the repairs of the Castle, are not accounted for in the 'profrum' or presentation of account, of the Bailiffs at the Exchequer. Inquiry is made and it is the Sheriff of the County who makes it; he is directed to have the stores valued by upright and loyal men in his bailiwick. He comes to Winchester and holds an inquest by a jury of eighteen; they find that a part of the missing stores are of no value, being decayed, worn out, and spoilt in the work for which they had been used. But after the beginning of the fourteenth century there are no cases of the whole government of the town being taken over by the Crown and put in the hands of the Sheriff or a special 'custos'. The last appears to have been in 19 Edward II (1326), when one of the Bailiffs who had gone to Westminster to present his account left the Court 'contemptibiliter' before the proceedings were finished. The Sheriff is somewhat hastily ordered to take over the government of the City and collect the dues. It is then ascertained that the poor Bailiff was ill and had died on his way home. The citizens send and make their 'fine' with the King, on the terms that they may have 'their return', the right to answer for themselves and not through the Sheriff, and are allowed their independence again. Many years later a new constitution was defined by the Charter of 30 Elizabeth. This is not essentially the grant of new rights; it is rather a summary of what are understood to be the rights already in existence, and its provision 'no Sheriff or others our bailiffs or ministers shall at any time enter into the city or liberties aforesaid to execute the same writs and summonses' may be taken as a description of the independence that had been gained two centuries earlier.

This independence does not mean that local government

was free from all central control—the important point to the City was that the control was immediate and direct, no longer exercised through the County. Control indeed was very effective. The interesting case of the Clerk of the Market, the King's officer who controlled the price of food, will be dealt with later.<sup>1</sup> For finance the Bailiffs tender their account at Westminster in the octave of Easter, and submit to audit at Michaelmas; they were said to 'solvere profrum et facere visum compoti sui', and when this was done they had 'licencia recedendi'. In the County of Southampton the same obligation was upon the Sheriff of the County, the Bailiff of the liberty of the Bishop, the Sheriff of the town of Southampton, the Bailiff of the liberty of the Prior of St. Swithin's, the Custos or Reeve of the Manor and town of Basingstoke, of Alton and of Andover, the citizens of Winchester by their Bailiffs, the men of Portsmouth, the Reeves of the various Royal Manors, Lyndhurst, Odiham, &c. The audit was no formality. We find the Barons of the Exchequer wanting to know what has become of hurdles and shovels, and, as already said, ordering the Bailiffs to be distrained, and we have a case at a later date where Bailiffs who leave the Court before they have satisfied the Justices are committed to the Fleet and make their 'fine' with a half-mark apiece. But this central control meant the continuance in a modified form of a control which had been exercised more directly in the old days before the King loosened the rein and trusted the citizens with the management of their own affairs; it did not mean an attempt to enforce uniformity between town and town.

<sup>1</sup> Below, p. 158.



## IV

### THE CITY OFFICERS

AT the present day the Mayor of a town, with his position as Chief Magistrate, his claim to take the lead in town movements, the deference which tradition requires to be shown to him, the initiative which is expected of him in cases of difficulty or emergency, the opportunity he has for suggestion and guidance as president of his municipal council, his right to act as spokesman for his fellow townsmen in dealing with outside bodies, his position as the channel of communication with the Central Authority, cannot fail to be the leading personage in his community. In the fourteenth century he was even more. His power since that time has been limited in two ways. His relation to his Council has been altered: he is Chairman of a body on which power has been conferred by statute, the decisions are the decisions of that body, not his. In the time of Richard II he has a body of 'peers' which is his adviser, not his master: he is not bound by its vote, he takes counsel with it as a general may with subordinate officers; if it differs from him he need not accept its advice: he is an autocrat and the decisions are his; he is only subject to the Commonalty meeting in Burgh-mote. Secondly, in the fourteenth century the executive was concentrated in his hands. The business was simple, it is true, compared with the complex work of our own day, but what had to be done was done by the Mayor, or on his orders. In the earlier part of the period, before the City finance is taken over by the Chamberlains, the City revenues, other than those received by the Bailiffs, are paid over to him, and he makes or directs all payments, without reference to any other authority: there is no one whose approval or sanction he is required to obtain before expenditure is incurred; he has only to submit to

audit at the end of the year. After the time when the Chamberlains have taken charge he is still often the channel through which the proceeds of the collections reach them, and he receives from them, or intercepts before it reaches them, what is required for 'the Mayor's expenses'. Leaving out payments authorized by the Commonalty at the Burgh-mote, which was held at infrequent intervals, payments made by the Chamberlains are either customary payments or are made 'ex precepto maioris'; wherever a decision has to be made or discretion used, the decision and the discretion are the Mayor's. A considerable part of the yearly revenue was used for entertainment, and this was entirely spent at his will. The reception and entertainment of guests was incessant, and it was paid for by the Mayor, not out of his private purse as now, but by him for the City as part of the City's duty. There is a conviviality, too, about the transaction of the simplest business: 'the Mayor's expenses on business of the City in wine purchased vjd.' is a type of an entry constantly recurring. Much of the negotiations the Mayor had to conduct went on in taverns, with the usual item in the account 'in pane et vino emptis' following it. Distinguished strangers, whether regular visitors like the Sheriff and the Judges of assize and sessions, or casual visitors like a royal prince or a great earl, had to be met, outside the walls as a rule, and entertained, and it is the Mayor's business to see to generous treatment both of themselves and their servants. He is responsible, too, for more justifiable expenditure; he gives the order for repairs to such buildings as the Courthouse and the Staple; it is his duty to satisfy himself that the repairs are required: the bills (*parcelle*) are sent to him and he sends them on to the Chamberlains. Further, the Mayor's judicial duties were heavier than those of a Mayor at the present day. Presentments for minor offences came before the Mayor and Bailiffs, as ordinary police-court cases now come before the City Magistrates, of whom the Mayor is chief, but there is a class of business of which we have a full, even a tedious, record, which the present-day Mayor escapes. The time



of the City Court meeting, at least once a week, and of the Court of Pie Powder (the Merchants' Court), meeting at all sorts of times and on an average about twice a week, was mainly taken up with cases of debt. It must have been a wearisome business, for in the Court of Pie Powder the adjournments came close together, and with the exception of the dinner interval the Mayor might be kept in Court from eight to four, and that on the average (for the two courts together) for something like three days a week. The Mayor in fact did the work of a County Court Judge as well as of City Magistrate, hampered in it by the endless trammels of the tedious mediaeval procedure.

In return, he had all, and more than all, the honour now yielded to a Mayor. He is spoken of almost with affection in the record, generally so bald and feelingless, of the City accounts. When Henry V's troops were in Winchester, in 1416, one Alan Skinner with certain of the soldiers 'insurrected' on St. Swithin's Day against 'our' Mayor, as he is lovingly termed. The Mayor, of course, had to be the first to face disorder or riot, and he was able to quell this disturbance at a cost to the City of eighteenpence in bread and wine. We have a City record in English which begins with the reign of Henry IV, the Book of Ordinances of the City of Winchester. It is a summary of regulations made by the Commonalty at Burgh-mote, or by the Mayor's Advisory Council, the Twenty-four, extracted from the 'Black Book of Winchester'. There are many cases in it of enactments to safeguard the Mayor's dignity; fines, imprisonment even, are fixed for any one who slanders him—by-laws quite possible then, though a piece of legislation now quite outside the powers of a local body. It is true the age of the Lancastrian kings, though the zenith of Church supremacy, is an age of decadence, the decline of Winchester's commercial prosperity; the fictitious dignity accorded the Mayor may be in indirect proportion to the soundness of City prosperity, but there is an extraordinary tenderness for that dignity and a feeling that his position is a necessity of City life.

A typical Mayor's day gives us some idea of how his time was spent, and materials for constructing a picture of his day are very fully at hand in the account rolls. On an ordinary day he would go breakfastless to his first engagement—it might be to the session of the Court of Pie Powder at 8, eating nothing till dinner-time. After the Court had adjourned, as the Court of Pie Powder frequently did, for a second session at 10, the Mayor might hope to be free for his meal at 11. Breakfast was a concession to the young, or it was a luxury for the tenderly nurtured, and as such it was reserved as a special honour for distinguished visitors. It may be a day when an officer of the Bishop's, the treasurer of Wolvesey, comes in on business, and the Mayor invites him with his wife to such a breakfast (*ientaculum*), and from the bill, one mark (13s. 4d.), he does not treat his guests illiberally. Or it may be an ordinary City Court day, when he presides with the Bailiffs, and after dealing with the presentments by the Aldermen of Street Wards for petty offences that had occurred in their Wards, he settles down to the tedious civil business that follows, listening to the summons of defendants for debt or trespass. The summons need not be answered till six times repeated, and even then a defendant could put in an *essoin* or reason for further delay; the Mayor has to waste his time listening to the fruitless repetitions or hearing the names called of jurors that do not appear;<sup>1</sup> rarely is the monotony relieved by a decision pronounced by the Court.

If it is not a Court day there is administrative business. It may be of a serious character, and it is necessary to call together the Twenty-four, his advisory Council, his 'Dussipers',<sup>2</sup> as they are sometimes called. It is a dispute, perhaps, with the Abbey of Hyde, which the monks are carrying to the King's Bench at Westminster, and arrangements have to be made for defending the case. A London Counsel may be employed, Thomas Cowley; and possibly Edmund Pycard, one of the burgesses in Parliament, will be in London at the time and he can be consulted. Or it may be ordinary routine

<sup>1</sup> See below, p. 137.

<sup>2</sup> See below, p. 67.



business that he had perhaps better not do without his Dussipers; he has to go to see what repairs are wanted at City Walls, or at a house next the Kinggate, and he takes with him Mark le Fayre, an ex-Mayor, and John Blake and half a dozen men to examine what is wanted before he gives the necessary orders. He has the traders' 'parcelle' to examine and pay, or pass on to the Chamberlains. More often than not the bills are from taverners and vintners, for the Mayor has had visitors to entertain; or St. Margaret's Day (20 July) is at hand and the Judges are coming for the assizes, and it is necessary to settle the rate at which one of the taverners will take in the Judge's servants, with his horses, to board and lodge. Or the Easter Burgh-mote may be due, and the murage rate has to be settled by the Commonalty, and the Mayor has to advise it whether a rate for sixteen weeks will be wanted or fourteen will suffice for the work that has to be done. Notice has come from London that Parliament has granted the King a tenth and fifteenth, and the four commissioners who are to collect the tenth which the City pays have to be selected before their names are submitted at the Burgh-mote. The Clerk of the Market perhaps may be expected and he will want information on the local price of wheat, and a jury must be got together for fixing the assize of bread, the weight, that is, of the farthing loaf, for the coming twelve months, for his approval. In the afternoon the Mayor has to attend a funeral. Sir Robert Chalmele, the Governor of the Castle, who has a house at Somborne, has lost his wife, and the Mayor rides out there to attend the funeral; citizens, as usual, go with him, and they take with them a gallon of Malmesey, costing one shilling and four pence, as a comfort to the widower.

In the evening, if it happens to be near St. Swithin's Day, the sessions of the peace being held, there are the Justices to be entertained at supper at Mark le Fayre's tavern; possibly the Arundell and Crown heralds have arrived and the Mayor must sup with them at le Fayre's. If it is assize week, the Mayor will have been at the Castle all day with the three

burgesses required to make up the four whose attendance is obligatory, and a supper at a tavern ends the day's work.

The call on the Mayor's time was exacting, but much of the work need not have been a great burden to a man of sociable temperament who did not mind doing business in a tavern, and was not bored by sitting at supper with the same men he had done business with during the day, or alarmed by having to entertain guests of distinction at an early breakfast. But there might be more serious work for him to do, and much of it came from his relations with the Bishop. The suggestive words 'to make peace with the Bishop' are the reason given for a journey to the Bishop's manor of Esher. We are not told what the dispute was, but the visit involved an expenditure of £2 9s. 9d., and fees paid to servants of the Bishop probably belong to this occasion. But relations with the Soke were a fertile source of quarrel, and we know that once at least the Mayor had an unpleasant morning when he received a curt and peremptory letter from his Bishop.<sup>1</sup> More humiliating still was a day that saddened the close of his year of office, the opening of St. Giles' Fair. It was a day of absolute surrender of the powers of the Mayoralty. The City government passed for a whole fortnight into the hands of the Bishop, and the Mayor ceased to be master in his own house. Before daybreak, or at latest immediately after it, he must be at Kinggate or Southgate, whichever suits the Bishop's Justiciaries best,<sup>2</sup> and hand over to them the keys and custody of that gate, and 'the Justiciaries shall at their own pleasure set their own warders or porters there'. From Kinggate and Southgate the Justiciaries ride through the City, the Mayor and Bailiffs and citizens following them, to the Westgate. The keys are not the only symbol of authority handed over; the great weighing-machine, the 'tron of wools' used by the City Pesager in levying the dues on imports into the City, has to go too. City trade is in entire abeyance while the fair is held, and the tron is carried up to St. Giles to weigh for the Bishop. Proclamation is made at the Westgate that

<sup>1</sup> See below, p. 88.

<sup>2</sup> Kitchin, *St. Giles' Fair*, pp. 28 and 45.



for the space of sixteen days no merchant nor other shall sell, buy, or expose for sale any merchandise within seven leagues of the fair ground except in the fair itself. And so the procession goes round the City to Northgate and Eastgate, and finally up the East Hill through the little town that was only occupied at Fair-time, along its Grocers' Street and its Cutlers' Street, to the Pavilion, the Bishop's Court on St. Giles', and the Mayor is at liberty to return at last as he pleases to the City. But the days of humiliation are over at length, and on the last evening of the Fair the Mayor goes to fetch back the tron. The City minstrels are with him and a crowd of citizens, and they bring it back with music and rejoicing down the long slope from St. Giles, through the Soke where the Bishop was lord, over the bridge St. Swithin had built, and through the Gate which stood on the west side of it, and they are at last inside the walls, within which he has once more authority. The autumn day ends with feasting, the City provides wine to celebrate the restoration, and 'reduxio troni' is a regularly recurring item adding to the sum total of accounts.

Next to the Mayor come the Bailiffs. They are associated with the Mayor in the address of writs, as an essential order of the City's constitution; with the Mayor they give their name to the year—the heading of a document may be 'in the year of A. B. Mayor, and C. D. and E. F. Bailiffs'—and they sit with the Mayor as magistrates of the City Courts; if the Mayor is the first magistrate, the Bailiffs stand indisputably second. What is known of the history and duties of the office? The word itself implies a deputy who is responsible to a superior, and for the Winchester Bailiffs the superior is the King. In 1 Henry III, when the County of Southampton and the City of Winchester are temporarily committed to the government of John Marshal, all to whom the letters patent are addressed are enjoined to obey him as 'our bailiff'. At a later time (19 Edward IV), when the Sheriff of the County is ordered to attach the Bailiffs of Winchester, he answers that they are not 'in balliva mea', the balliva or bailiwick being the sphere of duty entrusted to any officer. Before the

creation of the Mayoralty the City was governed by Provost and Bailiffs representing the King's authority, but after the creation of the more popular office of Mayor we shall find that both titles continue for a time in use till that of Bailiff alone survives. In 1276, when the City government is restored to the citizens after its temporary sequestration, they elect a Mayor, Provosts, and Bailiffs, the word 'provost' being used in the plural. Further evidence of the equivalence of the term 'provost' and 'bailiff' is given by certain Winchester documents preserved in Magdalen College, Oxford. Among the witnesses to grants of property in Winchester whose names are given there are those of Elyas Weston,<sup>1</sup> Mayor, and William the Grocer and Roger de Cam, Bailiffs, in the year 1221; in another year (1225) there are no bailiffs but four provosts as witnesses, in 1230 we have the Mayor, William Parvus, and two provosts, Robert Coleman and Richard Codell, and the term 'provost' occurs ordinarily between 1230 and 1270. After 1270 'bailiff' and 'provost' are used indifferently until after 1300, when the latter title finally disappears.

We may conclude, I think, that 'bailiff' and 'provost' were both terms for officers exercising responsible functions in the King's name and representing his interests; that originally there were always provosts and may have been bailiffs as well; after the grant, or introduction, of the Mayoralty the two titles were used indifferently until that of 'bailiff' prevails. It is some confirmation of the view that the two titles were equivalent, that at Ipswich, 'where the Charter authorised the election of reeves (the English equivalent of provost) the persons chosen were called "bailiffs".'<sup>2</sup>

At the date of the 'Usages', which may be taken as the

<sup>1</sup> So the name is written in the copy made for Mr. Baigent and included in the *Baigent Papers*: Weston is clearly the same as the 'Westmann' who was Mayor in various years between 1215 and 1225. See above, p. 16.

<sup>2</sup> Ballard, *B. C.*, p. lxxxvi. It is fair, however, to say that in some towns the Mayor undoubtedly replaces the Provost. Northampton had the right to elect a Provost of its own in 1189, and, by Charter of 1200, two discreeter burgesses 'to keep the provosty of the town'; in 1299 the same officers are termed Mayor and Bailiffs, the Mayor replacing the Provost, the Bailiffs being the discreeter burgesses. *Northampton Records*, i. 26, 41, 57.



last quarter of the thirteenth century, the Bailiffs are chosen by the citizens at the Burgh-mote. Their choice is limited to taking two out of four nominees submitted to them by the Mayor and the 'Twenty-four'.

The duties of the Bailiffs are described in a single line, 'loyally to keep the provosty and to do justice to all the Commons'. I have attempted some definition of the word 'provosty' in the description of the Mayor's duties; and the different relation to it of Mayor and Bailiffs measures the difference in their whole position; he is to do nothing to interfere with it, the Bailiffs are to maintain it; he is the City's man and watches over its franchise, they are the King's men and represent his interests. As representing the King, they act as magistrates and sit with the Mayor in the City Court and the Court of Pie Powder. They represent him, too, as lord of the soil in transfers of real property. When a tenant in fee dies they hold the tenement from his death until the heir has established his claim.<sup>1</sup> They keep the records of the transfers, and at the end of the year they deliver up their terrage rolls to be placed for safety in the City Archives.<sup>2</sup> Their assent is required before a tenant can be ejected for arrears of rent<sup>3</sup> and it is they who have to take distress for debt. They, not the Mayor, act as controllers of the market and enforce the market regulations which originate in the royal authority.

Representing the King's financial interests, they receive the various rents and dues which belonged originally to him, and pay over to the Exchequer the sum at which the City has made composition for them. We have, unfortunately, only one example of a Bailiff's compotus roll,<sup>4</sup> that for 28 Edward III, when Henry Rende and John Biketon were in office. In this they account for receipts from rents, from Court fines, and fines for breaches of the assize of bread and of beer, and from

<sup>1</sup> Usages, § 63. 13.

<sup>2</sup> § 9.

<sup>3</sup> § 69.

<sup>4</sup> In his *Munimenta Civitatis Oxonie* (Oxford Hist. Soc. 1917) Mr. Salter notices that no bailiffs' accounts survive at Oxford, adding that possibly the Bailiffs were not required to present any accounts (p. xxxvi). The account rendered at the Exchequer may not have been the same as that rendered to the city.

the various market and other dues. On the other side of the account the principal item is the hundred marks, the composition for the fee-farm rent, now paid to the King's mother, Queen Isabella, and certain other payments which we are surprised to find still charged as though payments for internal administration were in theory expenditure on behalf of the Crown.<sup>1</sup> The Bailiffs also had to make the presentment of all business originating in the City Court that had to be referred to the King's Justices. They were responsible for the safety of prisoners to be tried at the Goal Delivery. Accordingly they were the keepers of the King's prison, and any person remanded to await his trial, either in the local courts or before the King's justices, was committed to the custody of the Bailiffs.

But the most burdensome work of the Bailiffs was the invidious duty of collection of trade dues and the supervision of the markets. Not only are the Bailiffs in the odious position of tax-gatherers, but they have to deal with fraud in the sale of yarn and the manufacture of cloth<sup>2</sup> to see that the standard fixed by the yearly assize of bread and beer is observed, and to take security or fine summarily for breach of regulations, a duty which would bring them into perpetual conflict with retail traders. Nor was their remuneration an inducement to take the office. Five lampreys out of every hundred brought into the town and a pitcher of wine from every seller of herrings are the only allowance that appear in the Usages,<sup>3</sup> hardly a rich diet in an age of many meatless days. It is not surprising that men seek to escape the office.<sup>4</sup> In 32 Edward III Stephen Haym is under a bond (*tenetur*) to the Mayor and Commonalty for the payment of nine marks<sup>5</sup> on condition that he be not chosen Bailiff. In the next century such payments for relief are common. In 5 Henry V Cannere and Clerke pay four marks each for it; in 11 Henry VI four men pay four marks, and one six, for the same, and in

<sup>1</sup> See below, p. 180.

<sup>2</sup> Usages; § 23.

<sup>3</sup> §§ 33, 34.

<sup>4</sup> For other reasons for avoiding the office see Boase, *Oxford*, p. 112, quoted by Maitland, *Township and Borough*, p. 78.

<sup>5</sup> The mark is 13s. 4d.



13 Henry IV John Lok, Dyer, and Walter Okefold purchase exemption at so high a figure as ten pounds each. The remissions become very numerous in the fifteenth century, but that was a time of decline in public spirit in individuals, and a time of distress to the City, when the fines paid for remission were welcome additions to the revenue. There is no eagerness to avoid the office of Mayor; there must have been something odious and onerous in a duty exemption from which men were willing to purchase at so high a price.

*The Minor Offices.*

The Mayor and Bailiffs stand ahead of the other annual officers, separated by as marked a line as the consuls of Rome from other magistrates. We have lists of City Officers for several years in the reign of Richard II and Henry IV. They are headed 'Names of the Officers of the City of Winchester', and the year is described by giving the names of the Mayor and Bailiffs at the head, but they are not themselves counted as 'officiarii'. There are twelve of these lists; six are for the years 1380, 1382, 1387, 1390, 1391, 1396; of the remainder one is probably for a year between 1387 and 1390, the rest for dates after 1391. What is tantalizing is that they are accompanied, but for one year only, by a list of twelve names described as 'panel for our lord the King for choosing officers'. It is unfortunate that we have but one of these lists. It is significant that the minor officers are still said to be chosen 'for the King', and we should have liked further confirmation and illustration of this important provision whereby appointment was made to the minor offices not by general election but by a nominating Committee. The members of the panel all played a prominent part in the city life of their day, and nearly all held high office; all belonged to the governing oligarchy, but how they were chosen we do not know. The appointment could only have been made by the Commonalty at Burgh-mote, or by the Mayor and Twenty-four. The expression used in the Charter of 30 Elizabeth, assuming it to be continuing the form in which magistrates have formerly been

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chosen, makes the former the more likely. In any case, the citizens are themselves choosing, directly or indirectly, officers who were once nominees of the Crown and are still in theory the King's servants.

*The Coroners.*

The officers may be classed according to their spheres of duty, namely, law, finance, police, or trade. First on the list are the two Coroners. 'Two Coroners', say the Usages (§ 8), 'shall be sworn in the City on behalf of (*de par*) our lord the King or his justices to do their office as well in the Soke as in the City aforesaid.' This is the only case where a City officer has power to act within the Bishop's jurisdiction; but though appointed by the City the Coroners act for the King and by his authority, and there is no evidence that the Bishop, jealous as he was of his authority in the Soke, ever opposed the City's nominee acting within it. At Exeter, on the other hand, it was one of the points in dispute between the City and the Bishop whether the City Coroner should be allowed within the Cathedral precincts, not only to 'corone' persons who died in the Bishop's prison, but to take the 'knowleche of felonyes' anywhere within the precincts.<sup>1</sup> At Leicester the Coroners, with the Bailiffs, examine cases of felony, sending them for trial before the Justices in Eyre, and after the execution of the criminals they note the value of their chattels and place them in the hands of the Bailiffs, who have to account for them at the next Eyre, for a large part of the profits of justice came from the felon's chattels.<sup>2</sup> The limit of local jurisdiction varied with the right and custom of individual towns, but everywhere the Coroners had to watch that cases which had to go to the Crown Courts were not undertaken, except initially, by the Mayor and Bailiffs. In our Court-roll of 28 Edward I, when John de Clere is accused of the theft of the large sum of twenty marks, which constituted a felony, the Coroners come into the Court and with the Bailiffs make inquest by a jury of twelve. De Clere is found guilty, but being a cleric he is handed over to the Bishop's Dean for punishment.

<sup>1</sup> *Shillingford Letters*, p. 83.

<sup>2</sup> Bateson, *Leicester*, i. 358.



But their duty did not end with this vigilance. Keeping the pleas of the Crown meant also that they had to furnish an accurate and complete list of all events that formed material for the pleas to the King's Justices in their periodical visits at the general Eyre or later at the Assizes. The fines and issues of these courts went to the King, and his Justices examined very strictly the lists presented to them, and their completeness depended on the activity of the Coroners. As well as taking 'knowleche of felonye', they had to take the initiative and make the first inquiry in anything that occurred which was likely to become matter for one of the 'placita Corone'. Hence it came that they were responsible for the inquest in cases of violent death, that part of their work with which every one is familiar now. But criminal business did not end the Coroner's duties; as is well known, they inquired into cases of treasure trove, for the King was interested as lord of the soil. But the interest of the Crown in the appointment of Coroners was not only self-regarding, they had to watch the administration of justice for protection of the commons as well as on behalf of the King. At Northampton, where there were four Coroners, besides the duties we have specified, they were to see 'that the provosts of the borough treat justly and lawfully as well the poor as the rich'. In this town, too, they took a part in general administrative work; they head the list, after the Mayor, of the 'Commonalty' in Burgh-mote, and receive the declaration of entrants to citizenship.<sup>1</sup> In general, Coroners are the King's representatives to see that the just and proper course was followed in legal matters and no encroachment was made on the King's power or the royal perquisites in criminal jurisdiction, as the Bailiffs were in protecting his financial interest in other relations. The liberty to elect its own Coroners was not without significance to the City. It was essential that the presentments made by the City through its Bailiffs to the King's Justices should tally with the lists presented on the King's behalf by the Coroners. If there was discrepancy the Justices imposed a fine on the local authorities

<sup>1</sup> *Northampton Records*, i. 31, 235.

—it was, in fact, part of their business to raise revenue by fines. It made a great difference to a community if the King's Coroners were on their side and they could have free communication with them; a difference in the presentations might mean heavy money loss to the town.

*The Clerk or Recorder.*

In the fourteenth century there was no 'Recorder' in Winchester, as we understand the term now—that is, a judicial officer who holds the City Quarter Sessions. 'Recorder' in this sense does not appear till the new Constitution defined by the Charter of 30 Elizabeth. What we had was a Clerk whose duty was the keeping of records. The 'Usages' never mention a Recorder, but the Clerk is spoken of frequently. He keeps the register of certain traders visiting the town. 'Syndermen' have to go to him to have their names enrolled and pay a penny as fee (§ 58), he receives a penny as 'tan-gable' from tanners, and a penny as 'smer-gable' from butter- and cheese-mongers for enrolling their names (§ 60), twopence from cobblers as 'sco-gable' (§ 61), and a piece of cloth from weavers (§ 12). He enrolls the indentures of apprentices, and has a fee of fourpence for his labour. Presumably also he kept the register of land-transfers, and the records of the proceedings of the City Court and the Court of Pie Powder. Though not yet styled 'Recorder', he is the City's recording officer, the keeper of its records, both legal and administrative. We may again be justified in illustrating by the practice of other towns. At Worcester the Clerk is to 'engros in perchement all thyngge longynge to the Baillies office and in his courts holden aforan them', and this includes land-registration, for his record is to be 'for lavfulle remembraunce . . . as welle for ther frehold as for other accyon between party and partie'.<sup>1</sup>

The Clerk, therefore, is the maker and keeper of the City Records, and down to the end of the reign of Richard II no other term but 'Clericus' is used for his office, and it is not till the beginning of the fifteenth century that there is mention

<sup>1</sup> Toulmin Smith, *Eng. Gilds*, pp. 399-400.



either of legal duties attached to the office or of the existence of an official called 'Recorder'. In the second year of Henry IV (1400) we hear for the first time of a deputy or under-clerk.<sup>1</sup> He is expressly forbidden to undertake pleadings in the City Court, and this would imply that the Clerk was now a man with legal qualification who can go into Court as an advocate, and that a deputy is appointed to take over his routine work of record-keeping. Shortly afterwards the title 'Recorder' begins to appear. William Wode is so called in 10 Henry IV,<sup>2</sup> and John Bye, who in the list of City officers for 4 Henry V occurs as Clerk, in a list which is undated, but which must belong to a year a little later, is called Recorder. The old office of Clerk is now divided between two holders—one the Deputy Clerk, who retains the purely clerical work, the other a Clerk or Recorder, who is a man with legal training and acts as the legal adviser of the City. John Bye is an example of the transition. He was a lawyer, not originally a citizen of Winchester, and was employed with other lawyers, like John Fromond and Richard Wallop, in the City's legal business. In 4 Henry V, for instance, when he is still called Clerk, he conducts a case before the King's Clerk of the Market and within the next two years he acts as City attorney at the Pavilion during the Fair; he is sent to London with the Mayor when the City has an action in the Westminster Courts, and he conducts an important negotiation with Beaufort, Bishop of Winchester; he is as much the City's counsel as its 'recorder' in the original sense of the word. He was shortly afterwards admitted as citizen, for in 7 Henry V he is spoken of as recently admitted to the franchise and is exempted from the burden of holding all offices except those of Mayor, Auditor, or Burgess in Parliament.<sup>3</sup> But the first case of a man holding a position answering to that of a Recorder of later times is Richard Wallop. He is not a Winchester resident, for the City pays for the keep of his horses and he is frequently entertained by the Mayor; he is almost certainly

<sup>1</sup> Black Book, fol. 2.

<sup>2</sup> Black Book, fol. 3 b.

<sup>3</sup> He was Mayor in 7 Henry VI (Black Book, fol. 23 a).

a London lawyer. He is employed at the same time as Bye, Bye acting as his junior, and he receives an annual fee of twenty shillings. But what is noticeable is, first, that he is treated as a City official of high rank and is given yearly a furred gown as 'livery'; second, that some of his visits are at the time of the sessions, and that in one year he is definitely called Justice of the Peace at the County Sessions. But though official and counsel of the City and the legal member of the Bench of Justices he is never called Recorder.

In other towns the history of the office is much the same. At Exeter, in the dispute between City and Bishop already mentioned, the Mayor's answer to the Bishop's article is sent in draft to the Recorder for his advice, and he acts for the Corporation in London, being apparently not resident in Exeter.<sup>1</sup> At Worcester, too, where there is both Recorder and Clerk, the Recorder gives legal opinions in the Bailiff's Court and the Clerk acts as his under-study, but the Clerk 'shall geve no jugement in the Baillies' name . . . in or uppon any diffuse matier beforn them' without the advice of the Recorder.

The subsequent history of the Recordership is hardly within the limits of the period with which we are dealing. If the view I have taken is right,<sup>2</sup> that there were no City Sessions of the Peace before the date of the Constitution established by the Charter of 30 Elizabeth, a Recorder did not hold Quarter Sessions before that date. This Charter provides that there shall be one Recorder and one Deputy Recorder or Town Clerk, but there is no reference to the office in the *Inspeximus* Charter of Henry VIII, and it cannot be said for certain whether he had judicial functions in the City Court at that time. He certainly had a position as a legal officer attending the Court. The Recorder's Oath given in the *Black Book*,<sup>3</sup> probably under the year 11 Edward IV, represents his duties in the latter part of the fifteenth century. This duty is twofold; the first is consistent with his being general legal adviser to the City and his being present in the City Court as

<sup>1</sup> *Shillingford Letters*, pp. 17 and 72.

<sup>2</sup> Below, p. 136.

<sup>3</sup> Fol. 35 b.



nothing more than that. He is to see that proper justice is administered in the Court, and that true counsel is given to the Mayor and the Twenty-four. But the second part of his oath binds him 'trewely and indifferently to administer the commyn right to every persone'—words that could hardly have been used unless he were with the Mayor and Bailiffs at least as adviser in their decisions as Judges of the Court. But it cannot be inferred from this that he was Justice of City Sessions of the Peace.

There are letters patent of about the same date, 4 Edward IV (1464), regulating the Town Court of Leicester. They authorize a court of Mayor, four of the discreeter comburgesses, with one learned in the law to be named the Recorder of Leicester. They are to be Justices of the Peace for the borough, and have power to deal with offences from felonies downwards; and the town of Leicester has exemption from attendance at a similar Court in the County, nor may any Justice of the County exercise jurisdiction within the borough.<sup>1</sup> At Southampton, too, by the Charter of 1461, the justices for the Sessions are the Mayor, a person learned in the law, four aldermen, and four burgesses; and where the Recorder becomes the Judge of Quarter Sessions it is probable that he did so originally by acting as the person learned in the law who is always one of the Justices, and not at first as Recorder.<sup>2</sup>

All the evidence from the Winchester documents tends to show that the Recorder when he was differentiated from the Clerk was first legal adviser to the Corporation and of the City Court, and on occasions the legal member on the bench for County Sessions, and finally in the sixteenth century he took rank next after the Mayor as Justice in a City Court of Sessions.

#### *The Cofferers.*

The three Cofferers should be classed with the Clerk. Elsewhere, it is true, the term is applied to a treasurer. But in the Royal Household the Cofferer is third Clerk in the

<sup>1</sup> Bateson, *Leicester*, ii. 280.

<sup>2</sup> Southampton Assembly Books, i. xix, Charters, i. 107.

Wardrobe, having administrative as well as financial duties; and the word never occurs in our numerous compotus rolls in connexion with finance. On the other hand the Cofferers are mentioned in the Black Book<sup>1</sup> as delivering to the Mayor charters and indentures required in the transfer of tenements. The 'Usages' give very precise directions about the great City 'cofre' in which is kept the City seal used for sealing the Charters of feoffments of property (§ 62). The 'cofre' has three keys, two kept by discreet men of the Twenty-four, one by a discreet man of the Commonalty. This 'cofre' is again enclosed in a larger one with two locks: the custody of the keys entrusted to one representative of the Twenty-four and another of the Commonalty. If, as is natural to suppose, it is this 'cofre' from which the Cofferers get their name, they are officers of the City's land registry, not of its treasury, and their duty is the safe custody of the seal and documents.<sup>2</sup>

#### *Finance Officers.*

Chief of these are the Chamberlains. The 'Camera' in a lord's house was his bedchamber, and treasure was originally kept there even in a king's household; later the royal 'Camera' denotes the dwelling of the inner circle of the King's seryants as opposed to the 'aula', that of the general household, and the Chamberlain is that one of his servants who has the charge of the duty of administering the funds entering and issuing from the chamber. Bracton defines a man's chamber as the place where he keeps what treasure he has.<sup>3</sup> The 'Camera' was also the strong-room of the manor house, where, in the absence of banks, the rents were deposited and money kept. In Wykeham's building of Winchester College there is a chamber at the top of a winding stair closed by an iron-studded door,

<sup>1</sup> Fol. 30 b, 7 Edward IV.

<sup>2</sup> It is not clear that the city seal was essential to the validity of documents; after the grantor has declared that he has affixed his own seal to his charter, he often adds 'for the greater security of this matter I have procured also that the common seal of the City shall be thereto affixed;'; it may, therefore, have been optional to add the City seal, but the 'Usages' certainly imply that it was the normal practice.

<sup>3</sup> See Tout, *Administr. Hist.* i. 72, 170.



itself accessible only through the Hall with its heavily barred door. The term was transferred to the treasurers of a municipality, and at Winchester first occurs in the compotus rolls in 41 Edward III (1367) about the same date as that at which (1375) Chamberlains were first appointed at Leicester; the 'Usages', dating from a century earlier, make no mention of them. At first there are five of them, if not six, but the number is at once reduced to two, at which it remains. Their employment, too, is at first intermittent; in 1371, the next year for which we have a roll, the funds are administered solely by the Mayor, and in 1 Richard II (1377) the Chamberlains merely act as receivers from the collectors of the special funds, and the receipts are handed over to the Mayor, who is the spending officer. Nor do they ever deal with the external payments to the Exchequer; that is done entirely by the Bailiffs. In the latter part of the reign of Richard II the Mayor ceases to make payments himself; and the Chamberlains become the sole financial officers; payments, however, are made 'on the precept of the Mayor' by the Chamberlains, or on his behalf for his personal needs. Generally one division of their account is headed 'Mayor's expenses', what amounts to far the larger part of the whole annual expenditure being for the various items on which the Mayor has power to spend public money.

#### *Revenue Collectors.*

City revenue consisting of two classes, special levies for special purposes not always recurring annually, and regular annual rates, the collectors are also either a special body appointed *ad hoc*, or officers with a certain title. The two regular levies are the murage rate for the repair of walls and gates, and the collection of the payments due from rents, from citizens taking up their freedom, and from persons called 'fodarii'.<sup>1</sup> Murage is collected by the Aldermen of the six Street-wards, the other charges by eight persons who act in pairs and bear the names of Aldermen, Laghmen or Laghermen, and, later, Bagmen. It is difficult to determine whether

<sup>1</sup> See below, p. 106.

these are alternative names for the same officers, or whether the pair consisted of two officers, one an Alderman, the other a Laghman or Bagman, who are of a different class, but I think the former is the right view. The Alderman is certainly not the same as the Alderman in charge of a Street-ward; 'laghman', meaning no more than law man, denotes a person placed in authority, as does 'alderman', and, from the way one name occasionally replaces the other in the rolls, the two are clearly used as alternative terms. 'Bagman' is not used before 41 Edward III, and when the term is used an account may be headed as that of 'Aldermen and Bagmen', but lower down in the account they may be called 'bagmen' only, as if they also were convertible terms. There is not any social distinction between the two; a Bagman one year may be called an Alderman another, and as a man in authority he was an Alderman, as a collector a Bagman. Was 'bagman' a nickname that grew into use? It is less honorific than 'laghman', but survived as the name more descriptive of the duty.

*Police—the Aldermen.*

The term 'alderman' thus denotes on the one hand persons in authority acting as revenue-collectors; there were eight of them, and they bore also the name of similar meaning, 'laghmen', as well as that of 'bagmen', derived from the duty they performed. But besides these there were other aldermen who held quite a different position. Of these there were six, and they were in charge of the six wards into which the City was divided, each ward taking its name from its principal street, High Street, Tanner Street (Lower Brooks), Jewry Street, 'extra' Northgate or Hyde Street, Colebrook Street, and Gold Street (Southgate Street). In many towns the Aldermen are magistrates. In London they sit with the Mayor in the City Court from the fourteenth century, if not earlier, but at Winchester Aldermen had not judicial power until the middle of the fifteenth century. The Charter of 20 Henry VI (1442) gives power to the citizens to elect four Aldermen who, with the Mayor and 'other of the discreeter men of the commonalty'



up to the number of four, shall have the powers of Justices of the Peace for enforcing the Statute of Labourers, and under the new constitution of 30 Elizabeth they have the general powers of Justices of the Peace. In the fourteenth century, however, they are police officers, not magistrates. At this time, it is true, the distinction between the two functions is not strict; an officer who is responsible for order is responsible, too, for conducting inquiries, and in the next century we find the Alderman 'taking the view' in disputes affecting property within his ward, and empanelling a jury for the purpose. But this is late in the reign of Edward IV,<sup>1</sup> nearer the time when Aldermen did get judicial power. Their authority is derived from two different sources. First, the division of a town into wards is a survival of the military organization of a borough, whereby the Aldermen are heads of the 'Custodiae', the wards or military guards, among which its defence is divided.<sup>2</sup> Later, the 'ward' denotes the locality, not the personnel, of the guard—the quarter of the town, not the men who guarded it. A writ of Henry III (1233) defines in some detail the method of policing a town.<sup>3</sup> It orders that a number of watchmen, varying according to the size of the town, but four at least, are to be provided in each borough for the prevention of crime, and if their own force is insufficient they are entitled to call all burgesses to join in hue and cry till the malefactor is arrested. The Winchester lists name Bedels, who, as well as the watch, act under the Aldermen to carry out the police work of the wards.

But the ward represented also another organization that goes back into early Saxon times, the 'frith-borh' or security for peace. The Normans seem to have mistaken the meaning of the first half of the word as if it were 'fri', and translated it 'frank-pledge'.<sup>4</sup> Under this system of frank-pledge the

<sup>1</sup> Black Book, fol. 38 b.

<sup>2</sup> Pollock and Maitland, i. 638-9.      <sup>3</sup> Stubbs, *Select Charters*, p. 353.

<sup>4</sup> K. Digby, *Hist. Real Property*, p. 54. It should be said, however, that this explanation is not by any means certain. It may be that 'frank-pledge' applies to those who are free in the sense of not being vouched for by a lord, as opposed to the 'mainpast' or household, which was under the lord's pledge.

hundred was divided into tithings or groups of ten families, which were responsible for the peace being kept by their own members; in Winchester the wards in later times represented the tithings, the Aldermen the headmen of tithings. The City Court had the 'view' of frank-pledge, the supervision of the system, and the Aldermen were bound to present to it for trial persons guilty of offences committed within their wards, having power to take security from them for their appearance.<sup>1</sup> In a system which had this twofold origin, the Aldermen were therefore the police officers of the wards. At Canterbury, where there were two Aldermen for each ward, they held a Court of their ward, but there is no trace of such a practice in Winchester; it was quite at a later date that the Aldermen gained the position of magistrates.

As police officers, also, they take a part in the ejection of a tenant for non-payment of rent. When a landlord wishes to eject a tenant who is in arrear he must have the authority of the Alderman of the Street, and by his 'view'—that is, after his personal examination—he may drive the stake before the door of the house, which was the symbol of his claim to the recovery of the property,<sup>2</sup> and at Oxford the Aldermen held the 'view of frank-pledge' in their own Aldermanries twice a year.<sup>3</sup> The Aldermen, too, had an important place in the registration of real property. When property changed hands the Alderman gave seisin to the new tenant and kept the charter, the document which was the evidence of the transfer, for a year and a day in his charge.<sup>4</sup> If at the end of the year and day the seisin was unchallenged the charter was presented to the Bailiffs for sealing. The remaining duty of the Aldermen was the collection of the murage, the rate levied for the upkeep of walls and gates. It is at first sight somewhat surprising that they should have a financial duty—it is hardly the work of police—but if the view taken below<sup>5</sup> is right—that murage was originally personal service—it is easy to understand that the

<sup>1</sup> Kitchin, *St. Giles' Fair*, p. 51. See the provision there made for procedure at St. Giles' Fair.

<sup>2</sup> Usages, § 63, 15.

<sup>4</sup> Usages, § 62.

<sup>3</sup> Salter, *Mun. Civ. Oxon.*, p. 63.

<sup>5</sup> p. 103.



rate which came to replace the personal service should be collected by officers responsible for the military 'custodia' of their wards.

*The Constables.*

The Constables in the fourteenth century are officers of some dignity, and something more than the petty officials that Shakespeare pictures for us at a later age. By the Statute of Winchester of 13 Edward I they have duties in the supervision of watch and ward, and at Leicester we find the Constable administering the oath to the watchmen, while his own oath binds him to maintain or give support to all the King's officers within his Constablenesship. At Hereford the Constable is classed with the Bailiff, and it is provided that a non-burgess suspected of crime may be taken to gaol by the 'Constable of the peace'. At Godmanchester the Constable has power to take security from a breaker of the King's peace,<sup>1</sup> a power which is exercised at Winchester by the Aldermen of Wards. At Southampton, too, the Constable holds a position similar to that of the Winchester Alderman, being the 'Chief pledge' for purposes of frank-pledge.<sup>2</sup> At Winchester he has a higher rank: he has power to summon offenders before him, and in the Court Roll of 24 Edward III five men are entered as fined for neglecting to answer his summons. The mere fact that there were two Constables for the whole town shows that they were in a higher position than the six Aldermen whose power was confined to their own wards. Their names come before those of the Aldermen and next after the Coroners in the list of City officers, and the absence of any mention of them in the Court Rolls as doing executive police work would suggest that the office was one of some distinction, involving responsibility for others, not the personal discharge of the rougher police duties; they had general charge of the system of watch and ward, the executive officers for which were the Aldermen and their Bedels.

<sup>1</sup> Bateson, *B. C. i.* 6.

<sup>2</sup> Hearnshaw, *Leet Jurisdiction*, p. 91.

*The Serjeants.*

The police duties of the four Serjeants (*servientes*) are of a limited kind. They are the servants, not of the Aldermen of Wards, but of the Mayor and Bailiffs. They collect the fines, and serve the summons, of the City Court; they carry out its orders in taking distraint and report to it the result; when the Bailiffs have sanctioned the ejectment of a tenant, a Serjeant, with the Alderman of the Ward, 'takes the view' before the symbolic stake is fixed.<sup>1</sup> They are paid by the Bailiffs and the City provides them a uniform (*roba*). They have to provide security for the proper discharge of their duty. Possibly this originated from a mild strike which they attempted in 1350. They left their work in the middle of the year after they had received their 'roba', but the City Court ordered them back to fulfil their engagement and find security for doing so to the satisfaction of the Bailiffs. The wearing of livery, however, was not a badge of menial rank; the City's legal counsel, Richard Wallop, was given a livery. Being the executive officers of the Court of Mayor and Bailiffs, they are men of some position. We find a case of a Serjeant being admitted to the Merchant Gild for honourable service; Philip Aubyn, who was Serjeant in 1409, belonged to a family that had furnished a Mayor to the City not long before, and another, Peter Gyllyngham, in the next year was one of the citizens of repute (*fidedigni*) summoned by the Auditors to decide a doubtful point arising out of the Chamberlains' account.

*Market and Trade Officers.*

The important officer called 'Clerk of the Market', who was concerned with the control of prices, was a King's officer, not the City's, and I speak of his position later.<sup>2</sup> But the City had a host of officers of its own for trade purposes, particularly for inspection of food and materials used in manufacture, some appointed by the gilds, some by the 'King's panel'. At the head of the list is the 'ponderator' or 'pesager', responsible for

<sup>1</sup> Usages, § 63, 15.<sup>2</sup> p. 158.



the collection of the 'pesage' or dues levied by weight on certain classes of goods coming into the City, of which wool was the chief. His work was at the Staple, where he had in his charge the 'tron', the great city weighing machine, the palladium of city trade, the annual removal of which to St. Giles' Fair meant temporary cessation of all business within the town. For purity in food there are examiners of wheat, of poultry, and of meat, for as such I understand the function of an officer called sometimes 'carnerator', sometimes 'cadaverator', the trade designation of whom wherever it is given is 'bocher'.<sup>1</sup> Then come the inspectors of leather and the 'tasters' of woad. Blue cloth was a speciality of Winchester to a much later date, and the woad for dyeing it came from north-eastern France, especially Amiens, Nesle, and Corbie.<sup>2</sup> The woad-inspectors appear on the list as City officers; the Usages (§ 59) say it is a custom of the dyers' craft (mester) that two 'prudeshomes' should be chosen by common assent to assay the woad of foreign merchants.

The lists conclude with the names of burgesses appointed from time to time to assess and collect municipal levies, or the King's tenth. In some lists we have the name even of the City minstrels, the porters of the six City gates (Durngate counting as one), and the sureties found by the serjeants for the proper discharge of their office. We must put out of our mind any idea that there existed in the Middle Ages anything in the nature of a municipal civil service. Such a system was foreign to the spirit of the time. The civil servants were amateurs, and with the exception of those duties that required special knowledge, any citizen was considered fit, and might be required in his turn to be, according to his social status, an alderman of a ward or a bedel or a bailiff, and if it was a question of examining leather or woad, any member of the mystery concerned had the technical knowledge enabling him to serve. Service consequently is mainly annual and gratuitous;

<sup>1</sup> The scribe who wrote the roll was evidently in doubt as to the proper form of the Latin name; once in a Court Roll of 24 Edward III it is even written 'coronator'.

<sup>2</sup> *Mun. Gild. Lond.*, i. 228.

the holder of an office rarely retains it for more than two years consecutively. Exceptions are the Coroners, the Clerk, and the Serjeants; the Coroners required special legal knowledge and there were obvious reasons why their office should not be one of those open in its turn to all citizens, and the Clerk and the Serjeants were officials who were regularly paid. Otherwise there is no salary attached to an office as such. The Mayor receives no payment before the reign of Henry VI; the Bailiffs have small customary fees, the collectors of murage are regularly allowed four shillings and sixpence for their work, and collectors and assessors of levies generally a small sum 'pro labore suo', but the amount is always trifling.



## V

### THE COMMONALTY AND THE TWENTY-FOUR

THE proper term for the collective body of citizens is the Commonalty (*Communitas*); it is such that it is termed in royal letters which are ordinarily addressed to the Mayor, Bailiffs, and Commonalty of the City. The Commonalty expressed its will in the Burgh-mote, the meeting of all free-men. The Commonalty, therefore, is the sole source of local legislation; apart from it there is no town council with legislative power. It is important to know who were included in the Commonalty as a body having power to act, who had the right to vote. 'Franchise' does not mean the right to vote, though that right may be a consequence of the franchise; the franchise of the City means the freedom of the City in the sense of the right to enjoy the liberty gradually won for it and expressed in its Charters—freedom in trade, security for property against exaction, and such protection against competition as the status of Merchant afforded. There was one body only that had this franchise and that was the Merchant Gild, and in their case franchise implied suffrage. But the Gild was a body limited in numbers: it could never have consisted of more than a couple of hundred members, possibly even a few score; was the right to vote in the Burgh-mote limited to this narrow oligarchy? The phrase used regularly in the Black Book, 'it was agreed and ordained at the Burgh-mote by the Mayor and his peers and the whole Commonalty of the City', or, more emphatically, 'the whole Commonalty of the whole of the City', would suggest a very extended meaning to the word, and is not inconsistent with the inclusion of all citizens, whether members of the Gild or not. Again, a large part of the population could not qualify as Merchants either by

wealth or occupation. There were burgage tenants unconnected with trade or manufacture, there were many journeymen craftsmen, doctors, chaplains; carters, taverners, whose names appear with their trade or status designation as tenants, or tax-payers, who were not included in the Gild. Such men were not without a function and a stake in the City organization; they took their part in the duty of the watch, they were under the obligation of frank-pledge, they were suitors in the City Court, they bore their share of the murage rate, they contributed to subsidy and tallage raised for City expenses, or to the tenth voted by Parliament; and from the list which we have of contributors to these payments their numbers exceeded what could ever have been the total of those holding the 'freedom of the City', even in its most prosperous days. Some of them, even if not merchants, had the property that qualified for admission to the Gild, and after the fourteenth century we find pressure applied to those who had the required four pounds of personal property to take up their freedom, and men with such occupations as butchers and innkeepers undoubtedly were included in the Gild. But there remained the artisans and others who never could be included; had they no vote in the Burgh-mote? We cannot give a clear answer to the question as far as concerns the practice in Winchester. There may have been provision in the custom of the City for qualification by descent, or residence, or employment, or inclusion in one of the recognized 'misteries', which covered the various industries of the City, but there is no indication in our documents of any definite act on the part of these citizens that served as qualification to take part in the Burgh-mote. There is no evidence to show that there was formal admission, by payment of a fee, to the 'misteries' or Craft Gilds, and that such membership qualified a citizen to vote as one of the Commonalty in the Burgh-mote. It is true that there appears annually in the account rolls an item of receipt from 'entrants' who might conceivably be journeymen or others obtaining citizenship by payment of a lower fee than that of the Gildsman, and this might be the wider and easier gate to the



suffrage of which we are in search. But it is doubtful if 'entrants' has this meaning. There is no other allusion to any such system of admission, and the connexion in which the word occurs would suggest another meaning. It is always coupled with another source of revenue which can have no connexion with admission to freedom or suffrage. The Bagmen, in rendering their account to the Chamberlains, answer for a sum, usually between £4 and £5 in the year, from 'firmarii et intrantes'. 'Firmarii' implies payment for the occupation of a building, or of a fixed sum paid for the right of collecting a variable revenue; they were either tenants, or else they were 'farmers' of a custom or tax, and the firmarii who make payment to the Bagmen may have been the collectors who farmed the petty customs payable at the gates.<sup>1</sup> The word 'intrantes' also is used of non-burgesses who pay a duty at the gates on produce they bring into the town, and we find the phrase 'consuetudines intrantium et exeuntium', though not in the account rolls. It is more likely, therefore, that 'entrants' in this connexion refers to entry to the City, not to its liberty, and in any case it would be very unsafe to conclude from the use of the word that there was a class of poorer men obtaining suffrage by paying a lower fee than was required for admission to the Gild.

It is hard to have to believe that those who bore so many of the burdens of citizenship had not the elementary right of a vote in the assembly which fixed the contributions due from them, but we shall find, I think, that what is known of the Burgh-mote shows that attendance was confined to a limited number, the governing oligarchy of the City. The Black Book, which gives extracts from its proceedings, does not go back farther than the beginning of the reign of Henry IV, but at that time the numbers present at a meeting are contemptibly small for 'the whole commonalty of the whole of the City'. As early as 1401 an important ordinance for-

<sup>1</sup> At Colchester the tolls of the town were leased in 1310 and 1345 to two firmarii for £35. (*Court Rolls of the Borough of Colchester*, i, pp. 3 and 191).

bidding manufacturers to send cloth outside the City for the finishing processes of fulling, &c., is passed 'by common assent' and the names of those present are recorded; they are thirteen, the Mayor and the two Bailiffs and ten 'fellow citizens', of whom at least seven are past or future Mayors. In 1420 warning is sent to every freeman (not to every citizen) to 'attend the Common Convocation (a term used convertibly with Burgh-mote) before he lossethe his talent<sup>1</sup> preased at four shillings'. The warning is fairly effective, but attendance is still thin, and in 1422 we find the purchase of a valuable property approved in 'Common Convocation by the Mayor's peers and the Commonalty of the City', and then follow the names of the twenty-one citizens, most of whom occupied earlier or later a prominent position, and 'many others', and from the numbers given on various occasions in the next two reigns we may conclude that the number attending rarely exceeded half those qualified by membership of the Gild. The mere fact that the Burgh-mote was always held in the Hall of St. John's and not out of doors is proof that it was not a mass meeting of all the citizens. The expression sometimes used, even in the thirteenth century, of those who act as the Commonalty in making grants, the 'probi homines' of the City, as well as the actual practice of the early fifteenth, tends to show that the 'Commonalty' was a limited body, in fact, though not in name, co-extensive with the Merchant Gild. We must conclude, however reluctantly, that the government of the City was an oligarchy, not a democracy, and the Burgh-mote was attended by Gildsmen only.

The Burgh-mote was held at least three times a year; one of the meetings was always at Michaelmas, when there were elected the Mayor and Bailiffs, and another at Easter on Hock-Monday (the third Monday after Easter); in the reign of Henry IV, of the other recorded meetings, two are in October, two in January, two in June, and two in August.

<sup>1</sup> The talent is the 'besant' of the Usages (§ 4), which is there set down as the fine for members of the Twenty-four who fail to come to a meeting summoned by the Mayor.



The business of the Commonalty in Burgh-mote was extremely varied, and besides its regular elective functions any matters great or small might pass through its hands. It elected, besides the Mayor and Bailiffs, the Burgesses to serve in Parliament, and, presumably, the panel of twelve that appointed to the minor offices. It voted subsidies for City purposes and authorized the rate for murage for the year. It decided special cases, as where the admission fee of Ingram Platfot was remitted or the Alderman of a Street-ward was ordered to make restitution for conniving at evasion of murage. It dealt with the policy of City trade and the purchase or lease of City property, and on the other hand it was not beneath it to settle the order of precedence for processions or to regulate the closing of shops on Sundays. It is pathetic to find it sending a vote of confidence to the unfortunate Richard II only a year before his fall,<sup>1</sup> and declaring 'on the Holy Gospels' its readiness to die for him, and to read the King's answer, confident of success, telling it of the capture and death of Kent and Salisbury, Lumley and Blount. On the next page may follow a trivial resolution imposing a fine for evil-speaking of the Mayor.

A resolution is always represented as an agreement, often a unanimous agreement, of the Commonalty. It would be interesting to know how agreement was reached. We may be pretty sure it was not by counting individual votes that the expression of its opinion was secured. There is never any mention of majority or minority ; in the Middle Ages the will of a majority was not the only conceivable expression of decision that we now regard it to be. As Maitland points out, the idea of majority is one of growth ;<sup>2</sup> a corporate body could only speak as a unanimous body. Decision by majority was known to the constitutions of antiquity, but even by them it was not always exercised in the mechanical manner of present times. At Rome the voting unit was not an individual but an aggregate, the Century or the Tribe, and a respect, almost religious, for the voice that spoke first, the prerogative vote,

<sup>1</sup> Black Book, fol. 2 a.

<sup>2</sup> *Township and Borough*, p. 34.

made the decision still less the expression of the will of disconnected individuals. In the Winchester Burgh-mote talking perhaps continued till reason or dominant personality prevailed, but the feeling of a meeting generally makes itself sufficiently evident, especially if there are no constituents outside to take notice of a vote.

*The Twenty-four.*

The function and purpose of the 'Twenty-four' are defined very clearly in the Usages. 'There shall be in the City', it says (§ 3), 'twenty-four sworn, chosen from the most trustworthy and wise of the City, to aid and counsel the aforesaid Mayor in preserving and sustaining the franchise.' In this there is no idea of administrative or legislative powers; the Twenty-four are not a Council, still less are they a Town Council: the meeting of the Commonalty in Burgh-mote is the only Town Council in existence before the nineteenth century. They are purely an advisory body appointed to strengthen the Mayor's hands in what was his prime duty, that of seeing that none of the rights or privileges of the City is lost. Their relation to the Mayor is a personal one—they are his advisers and supporters, and the relation is expressed by calling them his 'peers', as they often are in the Black Book, or his 'dussipers'. Dussipers, or douze pars, were the twelve peers or paladins of Charlemagne, and the word is used of a body called to counsel by its superior lord, not necessarily limited in number to the original twelve.<sup>1</sup> Similar advisory bodies are common in other towns. There is one at Exeter, spoken

<sup>1</sup> The word 'dussipers' occurs only once in the compotus rolls. In the Chamberlains' account for 8 Henry VI a payment of 10s. 2d. for entertainment is authorized 'per assignacionem maioris et eius dussipers', and I believe these dussipers to be the Twenty-four. In the Black Book there is frequent mention of the Mayor's 'pares' or 'compares', but the terms denote sometimes the Twenty-four, sometimes the Bailiffs. On the one hand, in an entry of 5 Henry IV (fol. 33 b), we have 'the mayor and his compeers J. Snel and J. Frensshe Bailiffs'; on the other, 6 Henry VI (fol. 22 b), we have 'the Mayor and the xxiv his peers'. (See also fol. 28 a.) There is no doubt that the 'dussipers' of the Chamberlains' roll are the 'peers' of the Black Book. But the Bailiffs never authorize expenditure, the Twenty-four do; hence I conclude that in this case the dussipers are the Twenty-four.



of as the Mayor's 'Fellows' or collectively 'the Fellowship', and the Mayor takes their advice and reports to them on important City business, but the action is his, not theirs.<sup>1</sup> At Oxford a Charter of Henry III establishes, or confirms, a similar practice, defining a body of four aldermen and eight of the more discreet burgesses who have the duty of giving assistance to the Mayor and Bailiffs in keeping the King's peace and maintaining the 'assizes', or customary regulations, of the town.

The Twenty-four are an order rather than a Council. Citizens are spoken of as having the 'status' of the Twenty-four, as well as being members of the body. They have privileges; they may distrain a non-burgess debtor for debt on the spot without waiting for the sanction of the Bailiffs (Usages, § 47). They are an estate in the civic constitution and in some matters count as an estate of equal importance with the Commonalty. When the Commonalty appoints four auditors, there are four to represent the Twenty-four; of the three Cofferers one is nominated by the Commonalty and two by the Twenty-four; they choose half the Collectors of tallages (Usages, §§ 45, 62); and in the selection of the Bailiffs the choice of the Commonalty is restricted to taking two out the four that they have nominated. They themselves are 'jurats'—that is, under oath for the faithful discharge of their duty. It was inevitable that a body of experienced citizens so closely associated with the Mayor should gradually acquire some of his administrative functions, and, forming as they did the nucleus of the Commonalty, some of its legislative power; and this growth in their power becomes marked in the fifteenth century. They encroach on the administrative duties of the Commonalty. In 11 Henry VI, the Twenty-four grant exemption to John Packer from the office of Bailiff,<sup>2</sup> and an oath required of the Mayor by an ordinance of 10 Henry VI binds him not to dismiss or appoint officials without their consent. The difficulty of getting a full meeting of the Burgh-mote threw more power into the hands

<sup>1</sup> *Shillingford Letters*, pp. 8, 11.

<sup>2</sup> *Compotus Roll*, 11 Hen. VI.

of those who had a special position requiring them to attend the restricted circle of citizens who were more active in civic duties. In 34 Henry VI it is actually ordained that the Commonalty for purposes of Burgh-mote shall consist of sixteen nominated members of the Twenty-four and eighteen other citizens. The Mayor and the Twenty-four have become the predominant partner in the constitution, but the latter are still not a Council; the power they have originates in their close connexion and consultation with the Mayor and their opportunities for taking the initiative, but it is precarious and dependent on the neglect of the burgesses to use their own power—a neglect, however, which becomes permanent. Even when the constitution of the City is reformed by the Charter of 30 Elizabeth, the Twenty-four are persons ‘of the better, discreeter, or more honest sort, assisting or aiding to the Mayor’, an advisory body only; we have to wait till the Municipal Corporations Act of 1835 before we have a Town Council of twenty-four.



## VI

### THE GILDS AND TRADE

THE Merchant Gild consisted in the main of those members of the 'misteries' or trades who had completed their apprenticeship and had a property qualification of four pounds in value. They were the master craftsmen, the capitalists of the City, and no one could act as a master—that is, buy his raw materials and sell his products—unless he had the status of a Merchant, and this could only be acquired by membership of the Gild. The Gild is mentioned in the first Charter of Henry II as the body representing the commercial community of the City to which immunities and security in trading are guaranteed. The term 'gild' is, of course, not confined to trading gilds; the word is used of a fraternity formed for social or religious purposes as well as for commercial. The Palmers of Winchester had a Gild and occupied a house outside the Westgate, but they were bankrupt by the time of Edward I and unable to pay their rent, and their landlord applied to the Court for the recovery of his tenement.<sup>1</sup> In the same suburb there is a house paying a rent of thirty-five pence to the 'homines des tregilda', whoever they may be, at the time of the first survey of Winchester. More interesting is the 'chenichtehalla' in the lower part of the High Street, where in the time of the Confessor the Knights 'drank their gild', and there was another hall, nearer the Westgate, which the 'chenichtes' held, without payment, of the King.<sup>2</sup> But there is nothing to justify identifying the Knights' Gild with the Merchant Gild. It is true that King's tenants are called 'barons', and the term is used in Winchester itself, as well as in London and the Cinque Ports, of civilian tenants, who would be merchants and manufacturers, and not in any way a military

<sup>1</sup> Court Roll of 25 Edward I.

<sup>2</sup> Domesday Addit., p. 531 b, 533 a, 536 a.

class under obligation to follow the King in war. The 'lands of the barons' occupy some considerable space in the Survey of Henry I.<sup>1</sup> But a knight is not a baron, and, so far from being identical with the merchant, he is spoken of in contradistinction from him. The Merchant Gild is much more likely to be the collection of men of substance, the 'probi homines', who also drank their gild in the 'hantachenesele' in Colebrook Street,<sup>2</sup> in the days before the survey of 1148, for 'probi homines' is an official term for the Commonalty or body of burgesses, and a hall of the Merchants, a 'Chepemansela' or 'Chepmanneshalla' is mentioned in the Pipe Rolls of 1129 and 1172.<sup>3</sup> In any case the Merchant Gild was in existence when Henry II gave his first Charter, ten years after the date of the Bishop's survey, nor is it spoken of as a new creation. It must have had a meeting-place, and that is more likely to have been the place where the honest 'probi homines' gathered than the more aristocratic Club of the Knights in the High Street. Though our documentary evidence does not entitle us to say so, it is not unsafe to believe that the Merchant Gild was in existence at the time of the Conquest and in the reign of Edward the Confessor.

In many towns the Merchant Gild becomes identified with the Commonalty of the town; the officers of the Gild are the magistrates of the town, there is a common purse, and a Gild Court in which offences other than those affecting trade are tried. This was not the case at Winchester. It is true that in the first Charter of Henry II privileges that are granted to Winchester are granted to the Merchant Gild, and that when a similar grant is made in the second Charter it is made to the citizens in general, as if the two were the same. In the Charter of Henry III, also, the Gild is not mentioned in the first three clauses, and yet the right to trial in Winchester Courts granted to it in the fourth clause is not more vital to a Merchant Gild than the freedom from reprisals when visiting another town

<sup>1</sup> Domesday Addit., pp. 534 b-535 a, 537 b-538 b.

<sup>2</sup> *Ib.*, p. 556 a.

<sup>3</sup> Ballard, *B. C.*, p. lxxii; for its later use as the Cloth-selde see below p. 183, note 14.



which is assured to the citizens generally in the third. But it is one thing for the Gild Merchant to include all the citizens that count, or all that may vote in Burgh-mote, it is another thing for its constitution to be identical with the constitution of the City. It is true also that the analogy of other towns would lead us to expect that in our own City the Gild and the Commonalty should become in course of time indistinguishable. At Southampton, though the words 'who is not of the Gild and is of the franchise'<sup>1</sup> make complete identification impossible, yet the connexion is very close. The Alderman of the Gild is Chief Magistrate of the town;<sup>2</sup> regulations dealing with such matters as sanitation and purity of food, that affect the whole community, are passed in a meeting of the Gild;<sup>3</sup> Gild law fixes the penalty for offences against such regulations and provides for security being taken in a Court that combines town and Gild officers; it is the Gild that orders the Jurats to take the assize of bread, that defines the rules for the election of the Twelve and the Bailiffs, and regulates their attendance as magistrates in town courts. The laws of the Gild Merchant<sup>4</sup> are an object-lesson in the development of Gild power. The Borough-mote is still in existence, but government is more and more in the hands of the Gild, until at last the government of the Gild is the government of the town. At Andover the Gild is the municipality; the term 'morning speech', which is the regular word for the meeting of a Gild Council, was always used of the meetings of the Town Council. Leicester is a clearer case. There, too, the meeting of the Gild Council is called 'morning speech', and by-laws passed in 'morning speech' are described as the act of all the Commonalty. The Alderman of the Gild is Mayor of the City; property transferred before 'the Mayor of Leicester and the Commonalty of the same town' is recorded not in a town Court roll, but in the Merchant Gild roll; misdemeanours that have no connexion with trade are dealt with in the Gild Court. One Geoffrey the baker is fined in this Court, 'acknowledging in full morning

<sup>1</sup> Studer, *Oak Book of Southampton*, i, p. 33, § 13.

<sup>2</sup> *Ib.* i. 60, § 53.

<sup>3</sup> *Ib.* i. 53, §§ 41, 42.

<sup>4</sup> Printed in vol. i of the *Oak Book*.

speech that he broke the stone of the town wall and sold the stone', an offence against the town and not against its Merchant Gild.<sup>1</sup> Where the identification of town and Gild is so complete the Merchant Gild is more democratic and inclusive than we shall find to be the case at Winchester. The numbers annually admitted at Leicester are double those accepted by the Gild of Winchester; cooks, porters, ostlers, carters, and others are among its members, who would not have found a place in the more exclusive and aristocratic Gild of our own City. At Winchester it is quite different. The Magistrates of the City are the Mayor and Bailiffs, the officers of the Gild are never mentioned; in the *compotus* rolls the name of the Gild only occurs in the annual account of receipts from those admitted to the Gild being admitted thereby to the liberty of the City; their fees go to the City treasury, but there is in no sense a common purse; nor is the constitution of the City framed in any way on the lines of a Gild constitution, nor does it use the technical terms of a Gild for its officers or its meetings. The essential connexion between the two is that admission to the Gild is the one and only means of being admitted to the franchise of the City, and the 'liberty' of the City was therefore confined to a small oligarchy, but the City government was still not a Gild government.

Candidates for admission to the Gild were accepted at a formal meeting;<sup>2</sup> they had to be presented by the craft or 'mistry' to which they belonged, and the craft was bound to make inquiry as to who were suitable and of good fame to be recruited into the Gild. The property qualification was considerable, four pounds in chattels, and this and the fee paid on entry excluded any one below the status of a master of his craft. In the reign of Edward III the entrance fee is usually a mark (13s. 4d.), but even in the same year we find it vary from half a mark to as much as twenty-four shillings. Sons, or sisters' sons, of members of the Gild pay the lowest fee, and occasionally in their case it is remitted altogether; after 1390 it never exceeds ten shillings, and eventually half a

<sup>1</sup> Bateson, *Leicester*, i. 217.

<sup>2</sup> Usages, § 46.



mark became the regular fixed amount. The yearly number of entrants varies; in the palmy days of Winchester trade, before the death of Edward III, it is as many as seventeen in one year (in A. D. 1360); but the average for the latter half of the century does not exceed seven or eight. Assuming that a candidate was ordinarily accepted as a young man, after his apprenticeship was over, with an expectation of life of twenty-five or thirty years, the Gild would consist of at most 200 members. But we know of cases where a citizen holds high office the year after his admission; a man who was foreman of a jury or Alderman of High Street or Burgess in Parliament must have been more than a year beyond his apprenticeship, and 200 would be the extreme limit of an estimate for the number of the governing oligarchy of the City. If the trade designation of an entrant were always given we could get an exact picture of the composition of the Gild; unfortunately, it is only given in a small proportion of cases, but among those whose occupation is specified are weavers, fullers, dyers, tanners, smiths, taverners, tailors, helyars (tilers), parchemyners, chaundelers, glovers, butchers, corvesers, peleters (furriers), and carpenters. The first four are the aristocracy of Winchester manufacturing, and 'merchants' taken from them would all be capitalist employers; but even the smiths and carpenters, if not employers, must have had appliances and equipment in their workshop to the value of at least £50 or £60 of modern money. As has already been said, membership of the Gild was the essential condition of the independence of a craftsman. Without it a tanner or a weaver could not buy his hides or his wool, or sell his leather or his cloth. It would be difficult, therefore, for a journeyman to set up in business for himself. The Usages (§ 41) say definitely that no one out of franchise—that is, not a member of the Gild—could keep a shop, sell, or buy, without paying an equivalent for the concession to the Bailiffs. It must be remembered that a shop was not a place where the products of many different manufacturers were collected, but where the shopkeeper sold what had been made in his own workshop. The number of craftsmen who

were able to profit by this side-door to the privilege of a 'merchant' can only have been few ; if we may judge by the trifling sum raised from duties levied at the gates on unprivileged goods entering the City<sup>1</sup> it must have been quite insignificant.

The monopoly of the Gild was jealously watched and enforced through the City Court ; prosecutions for acting as 'merchant' are not uncommon : one Thomas Cook is accused of buying lead ; it sounds an innocent act, but if it was to be used in manufacture and the product sold, he was making himself a merchant, and that was an offence against Gild rules.

From this point of view the object of the Gild was protection—protection of its own members when doing business outside Winchester, protection against competition from manufacturers not of the Gild, both outside and inside the City. But it would be a mistake to think of its aims as being entirely self-regarding. In the past it had worked for the good of the City as a whole, and immunities and security granted by charter to the Merchant Gild were for the good of the whole City. Nor were charters granted by the Angevin kings given for nothing ; we have some definite record of the price paid, and a hint given in one charter has already been mentioned,<sup>2</sup> and the heavy price that undoubtedly had to be paid came out of the pockets of the members of the Merchant Gild. Conscience and the spirit of patriotism were not wanting in the Middle Ages, and the oath taken by entrants to the Gild shows what the meaning of the Gild was to a Winchester citizen. The words are taken from the 'Book of Ordinances' of the City, and though they belong to the fifteenth century, the oath had probably remained with little change from the earliest times, and represented the feeling that was in the mind of the gildsmen when their Gild was first recognized.

'I schal be hool man', it says, 'and trewe to the Kyng of England and his heys, and to the cite of Wynchestre, and I schal bere alle charges and offices and paye alle talages of that Cite to me yset with al my power, and schal never plede man

<sup>1</sup> See Bailiffs' account, p. 179, and Usages, § 25 and 43.      <sup>2</sup> p. 33.



of that cite bute in the curt of the same. Also I schall be obedyant to Mair and bailyes and alle other officers and mynysters of that cite ne no man kever ne faver under my franchyse and alle maner statutes and usages of that cite kepe well and trewelyche, so helpe me God at holy dome.'

There is not a word in this to suggest that a gildsman felt that his Gild was primarily a combination of persons for the protection of their own interests, or that it was a machinery for excluding the unprivileged, still less for enabling masters to secure favourable terms against their workpeople. It is rather the profession made by a man on becoming a citizen of his duty to King and City; he is the recipient not of privilege but of a trust, which he must exercise with loyalty to his fellow gildsmen, but with loyalty also to the City which had won the rights he enjoyed, and to the source, the King, from which they came. He is not by a subterfuge to admit outsiders to share the advantage his City had so hardly gained; he is to respect the principle of Winchester cases in Winchester courts; he contemplates that he will be one of those on whom falls the burden of taxation and the duty of holding public office; and he promises to bear his part in the government of the community. Craft-gilds undoubtedly came to exercise their powers in protecting themselves against competition, but this is not the prominent feeling in the mind of a member of the Merchant Gild. He feels he is a member of a community on whose general prosperity he himself depends, and that he is one of a class which has in its hands the government of that community. The Merchant Gild may have been an oligarchy, and in its later days a selfish oligarchy, but in its earlier days it has the fine spirit and pride of an aristocracy whose ideal is service and loyalty.

While the members of the Gild had the monopoly of acting as merchants, that right, of course, was limited to buying and selling within their own craft; a butcher could not sell fish, nor a weaver buy hides. Their monopoly might further be limited by the privileges of individuals or corporations within the City who enjoyed rights that had been granted to their predeces-

sors in the past. The sale of flaxen and hempen yarn was subject to such a restriction. There was a building called the 'Cloth-selde' in the High Street, on the north side, just above Middle Brook Street, the owner of which had the right to hold a private market of his own on two days of the week, Tuesday and Wednesday, and on these days he had a monopoly in the sale of yarns. The market was called the 'Lows-fayre', and there was a special court to deal with market cases, to which the tenants of the Cloth-selde owed suit. All outside merchants must either sell on these days at the Lows-fayre, or pay equivalent dues to the lord of the Cloth-selde for their standing elsewhere. In the early part of the reign of Edward III the lord of the Cloth-selde was Robert de Bukyngeham, a clerk, and in 1330 he transferred his rights to the Priory of St. Swithin.<sup>1</sup> I have found no later mention of this market, and its cumbersome and unfair restriction on trade must have caused it soon to have fallen into desuetude. Like Godbiere, it is an instance of how an island of soke, or special jurisdiction, might exist within the liberty of the City.<sup>2</sup>

The Craft Gild was general in England in the fourteenth century, and the manufacturing advance in the reign of Edward III led to a great development of the Craft Gilds, and an increase in their numbers which diminished the ascendancy of the Merchant Gild, till eventually the aggregate of the merchant fraternities replaced it, or, at least, became tantamount to it. In Winchester we find the term 'gild' used of these craft fraternities as early as the twelfth century; the weavers and the fullers make payments to the King of one and two marks of gold respectively 'pro gilda sua'.<sup>3</sup> Otherwise the organized trade which is constantly referred to in the Court rolls of the fourteenth century and in the Usages is never called gild but always 'mistry' or, in Anglo-French, 'mester'. It has been unfortunate that the term has been confused with 'mystery', a word of totally different origin. There is no connotation of secrecy or exclusiveness in 'mistry'; derived

<sup>1</sup> See below pp. 181-5.

<sup>2</sup> For an extract from the Charter see pp. 181-5.

<sup>3</sup> *V. C. H.*, v. 41.



from *ministerium*, it denotes the body of skilled or trained men performing a service, organized into a society. Besides the fullers, the weavers are a mistery, divided into the 'mester de tapeners' or blanket weavers, and the 'mester as burrellers', the weavers of coarse cloth; the dyers are a mistery, the bakers, the tanners; so too are the fishmongers, for 'mistery' includes trades as well as crafts; and a will of 1348 mentions a 'fraternity' of tailors. In the fifteenth century the crafts are fully organized with their officers, masters and seneschals, and the 'Book of Ordinances' for 15 Henry VI gives a list of twenty separate trades that had a place in the City processions, a list which we may take to represent the number of trades that were then recognized 'misteries'.

Originally the trade organizations were dependent for their protection on the Crown; without that dependence they had no security; and the Crown continues to exercise control over their constitution and management. The dyers, for instance, who appoint assayers of woad, do so 'by common assent', and come into the City Court to make their choice before the Mayor and Bailiffs, the Court representing the King's authority. As late as Tudor times the Charter of 30 Elizabeth delegates to the Mayor, Bailiffs, and Commonalty the Crown's power to make laws, ordinances, &c., for the Crafts, for the public utility, and to enforce them by penalties. The 'Usages' show both crafts and trades making a payment to the King for the right to follow their employment; when they are organized they collect the dues themselves, and, as would appear from a mention of the bakers paying collectively 100 shillings on this account, they compounded for their dues for a lump sum; but the payment is still a recognition that trade is in theory dependent on the Crown.

We cannot pretend that the Crafts were as public-spirited and large in their view as the Merchant Gild. Of their two main objects, one was frankly protection against competition; at a later date the tailors appealed to Elizabeth for leave to form a Gild, and say quite nakedly that they are being ruined by the competition of non-burgesses and require power to suppress

it. And from the time of the 'Usages' the spirit was the same; an organized trade was to be a monopoly for its members. The staple trade of Winchester was weaving, and the 'Usages', after eight brief sections dealing with the constitution and officers of the City, turns at once and very fully to the conditions for the protection of the weaving industry. A master weaver must be of the franchise of the City—that is, a member of the Merchant Gild (§ 14); he cannot set a workman to a loom without paying the dues (§ 11), nor can he introduce new labour into the craft through apprenticeship without a fee to the Crown (§ 19); he may not evade the restrictions of his craft by carrying on his trade outside the walls, even in the Soke, as a modern factory may escape urban rates by moving into a rural area (§ 10). As a master weaver is protected from outside competition, so provision is made for securing his position in relation to his own workpeople and his rivals in his own craft. Labour is not mobile; an employer was not in danger of having his men leaving him at unexpected times, for a master may not engage the journeyman of another except at the regular hiring season, St. Andrew's Day; nor can a workman hold out for higher wages—the rate is definitely fixed at a weekly sum.<sup>1</sup> Nor are there signs of any attempt on the part of the workers to keep up the price of labour, or secure themselves against unemployment by restricting its supply. There was no restriction on the number of apprentices admitted to the trade, except the comparatively high fee of ten shillings paid by the apprentice, unless he were son or sister's son of his employer. The 'Mistery' was not a trade union for the benefit of labour, but a federation of the trade for its own protection.

Equal care was taken that the price of the weaver's raw material, the yarn, should not be run up against the manufacturer. Of all industrial dangers, the Middle Ages were most alive to, that of 'regrating'—buying up the available supply and making a corner in a commodity. All Gild and municipal regulations have stringent provisions against regrating. They

<sup>1</sup> See below, p. 150.



take up many clauses in our own Usages and in the Regulations of the Southampton Gild.<sup>1</sup> To protect the weaving trade the rule is that no man may buy more than he needs for his own use before a certain hour (9 a.m.); till then all have equal opportunity, and two jurats of the trade watch the shop where yarn is sold (Usages, § 23). An obscure passage in the same section may mean that the shop should not have any fittings that would facilitate a conspiracy for regrating between buyer and seller.

So far there is nothing altruistic about the regulations of the mistery, but there is a second and totally different side to its action. True, it protects its own members, but it aims equally at securing a high standard in quality and soundness of work, and its system is a guarantee to the purchaser of the quality of what he has bought; it protects the consumer as well as the manufacturer. It depends for the discharge of this responsibility on publicity; what a craftsman does must be open to inspection. The weavers appoint two 'prudeshomes' of their body to see that 'all the ancient usages appertaining to the trade' are observed; they are to deal with 'chose fause'—any form, that is, of dishonest work; and particularly they are to see that yarn is not damped to swell its weight. Night-work is prohibited, except for the short period before Christmas—a time of pressure in business then as now. Night-work was against the principle of publicity; it made easier the evasion of rules, and the quality of night-work was below that of day-work; the prohibition was not to prevent over-production.

Another provision of the premier industry of the City aimed at what is now called 'standardization'. One of the two staple products of the weavers was the 'chalun'. The chalun was a blanket; the word is coupled with 'sheets' in Chaucer:

And in his owne chambir hem made a bed  
With schetys and with chalouns fair i-spred.<sup>2</sup>

<sup>1</sup> Usages, §§ 26, 27, 28, &c.; *Oak Book of Southampton*, §§ 63, 64, 65, 69, 70, &c.

<sup>2</sup> *Reeve's Tale*, l. 220.

It occurs in the form shalloon as late as Defoe.<sup>1</sup> Four different sizes are specified,<sup>2</sup> and blankets of any other size are to be confiscated; if I understand the dimensions rightly, the largest authorized size corresponds to a pair of blankets of medium size at the present day. A statute of 7 Henry IV, re-enacting statutes of Edward III, fixes similarly standard dimensions for the finer cloths 'drape de coloure' and 'drape de ray' (striped cloth). They are to be in pieces which when finished, 'ewe et tondue', shall be of 24 ells in length; the manufacturers had been reducing the dimensions 'en deceit et graunde damage de comune poeple du Roialme'.<sup>3</sup> The influence of the weavers, however, was too strong, and the statute was annulled two years afterwards, and the standard size not enforced; but there is nothing to show that the local regulations of Winchester were repealed. The meaning of such fixed units of size can hardly be doubtful; they save measurement and calculation at the time of sale, and they are meant to facilitate the control of prices and to simplify the comparison of values for the purchaser; the City regulation is protecting the consumer.

The other staple weavers' product was 'burel' cloth. Burel was a rough coarse cloth, worked on large looms paying a yearly custom of five shillings;<sup>4</sup> the chaluns on smaller looms, which might be double or single, with a custom of twelvepence and sixpence.

The regulations for the weaving trade are given with great fullness, for it was the leading trade of the City; but the same principle to secure at once protection for the industry and supervision in the interest of the consumer apply to all other trades. The tanners, for instance, may not send out hides 'green' to be tanned elsewhere; tanning must be done in Winchester,<sup>5</sup> and examiners of leather, the 'custodes corei tannatorum' or 'supervisores tannatorum', are responsible for the quality of the products. All market and trade inspectors

<sup>1</sup> *Tour*, iii. 97, quoted in Webb, *Trade Unionism*, i. 30.

<sup>2</sup> *Usages*, § 18.

<sup>3</sup> *Black Book of Win.*, fol. 9.

<sup>4</sup> *Usages*, § 7.

<sup>5</sup> *Usages*, § 25.



are officials of the Community; the dyers, as we have seen, make their choice of woad-assayers in the City Court under the sanction of Mayor and Bailiffs, and the inspectors of woad, of leather, of meat, of poultry, of wheat, appear in the lists as names of City, not Craft, officers. The inspectors have power to deal summarily with offenders by levying distress on the spot and making presentment at the next City Court.<sup>1</sup> In the reign of Edward I, Walter the Ropere and his wife are attached by the poultry warden, Peter Langsomer, for regrating, in buying three hens and three geese before the authorized hour. They abuse him as 'robber and seducer', and Langsomer brings them into Court for the 'trespass' or personal offence against himself, and they are fined sixpence; but it would appear that for the trade offence he had the power to deal with them by seizing the hens and geese, and need only report what he had done to the Bailiffs. No prosecution or distraint is more common than that of retailers for buying before the authorized time, or for selling in an unauthorized place; butchers and bakers are constantly in trouble because their stall or their basket is not in the accustomed spot; the community was active through its officials in preventing any evasion of control.

In exercising this control the City, now independent, was continuing a duty formerly discharged directly by the Crown, and the Crown was still acknowledging its responsibility for the welfare of the citizens as purchasers in what was in theory its market, by keeping in its own hands the appointment of the Clerk of the Market, whose duty was to see that prices were not unfairly raised against the King's subjects.<sup>2</sup> One of the most interesting cases of supervision by the community over the sale of food is that of the sale of bread. Bread must be of the standard weight and quality, and must bear the stamp of the baker; his 'sel cunu' or recognized stamp must be on each loaf.<sup>3</sup> The actual selling was in the hands of women who had fixed places for their baskets in the High Street and side streets. The weight of the loaf was

<sup>1</sup> Usages, § 22.

<sup>2</sup> See below, p. 158.

<sup>3</sup> Usages, § 38.

fixed by the 'assize of bread'. The word 'assize' meant strictly a sitting (*assessus*), (or, derived from a Saxon source, a thing settled,) then the decisions of that meeting, and finally the regulation defining quantity becomes identified with the quantity, and 'assize' comes to mean, and be called, 'size'. The assize was fixed in the City Court by a jury of twelve. At Worcester it was fixed by the Bailiffs weekly; at Winchester I have found instances of jurymen more than once in the year being fined for not attending for the assize, but there is nothing to show at what intervals the meeting was repeated. The modern form of an assize of bread, with which the Great War has made us familiar, has consisted in fixing the price of the four-pound loaf. Our ancestors had to reverse the relation and fix, not the price, but the weight. They had a coinage of few denominations, and the lowest of these was of relatively high value. The smallest coin in circulation was the silver penny—a coin not much wider, and hardly as thick, as a modern sixpence, but with a purchasing power of some fifteen or eighteenpence of money at its recent value. It is true it could be cut into halves and quarters with a pair of shears, to make halfpence and farthings, but in any case it was a big unit for small purchases, and not adapted for making fine gradations in prices. Weight was more divisible than coinage, and the assize took the halfpenny or the farthing loaf as the unit and varied not the price but the weight. From an example given in the *Munimenta Gildhalle Londiniensis*,<sup>1</sup> if the price of wheat were 10s. for the quarter of 360 lb., 240 halfpenny loaves that could be made from that quarter would weigh 1½ lb. each; if the price of wheat fell to 7s. 6d., the loaves would rise in weight to 2 lb.; if wheat fell to 5s. the loaf would weigh 3 lb., the assize maintaining an inverse ratio between the weight of the loaf and the price of wheat. The baker was allowed a margin of error in the weight of his loaf of twelve pennyweights on the farthing loaf; after that he was liable to summary fine up to a short

<sup>1</sup> i. 352.



weight of three ounces; above that amount of default he had to appear in the City Court.<sup>1</sup>

Ale also was subject to assize, and its enforcement must have given some trouble. In 24 Edward III, thirty brewers are summoned in one day, and in 28 Edward III the Bailiffs account for the large sum of £7 1s. 2d. received in the year from fines for breach of the assize. Beer was one of the staple foods of the time, not a luxury; brewing was a domestic industry, not centralized in a few large breweries, and from the statistics of prosecutions the number of small brewsters must have been large. The active Court of Colchester, a town not larger than Winchester, could fine upwards of ninety brewster-housewives at a single sitting.<sup>2</sup>

There was similar control for flesh and fish. Outside the Westgate were 'parrocs' or paddocks, and for a part of the year, between Michaelmas and St. Nicholas Day (6th December), the Cattle Market was held there daily up to the hour of 'haute tierce' (9 a.m.); after that hour and at other times of the year the market was in Minster Street.<sup>3</sup> The market was thus outside the walls for some ten weeks in the autumn, and that only in the morning; at other times it was held in the very centre of the City. Autumn was the time when fat cattle were brought to market for slaughtering and salting down for winter. London, too, had its market for fat beasts from 11th November to 25th December, but for lean beasts from Hock Day (the third Monday after Easter) to Michaelmas.<sup>4</sup> The meaning of the Winchester rule must have been to relieve the pressure at the busiest time of the year, so as not to crowd the narrow streets of the town—a sanitary precaution, not one of the measures for securing publicity. For the rest of the year there was no reason why the market should not be in Minster Street, which was close to the Butchers' quarter in Fleshmonger Street (St. Peter's Street). Across the High Street, and behind 'Godbierte', was

<sup>1</sup> Usages, § 37.

<sup>2</sup> *Court Rolls of Colchester*, pp. 141, 167, 193.

<sup>3</sup> Usages, § 36.

<sup>4</sup> *Mun. Gild. Lond.* i. 233-4.

the Church of St. Peter in Macellis, i. e. in the Shambles, from the tower of which the curfew was rung. A short distance east of Godbiete, in the third house from it, on the site of the old King's prison, were premises let to eight butchers in the time of Henry I, who paid a penny as rent every Sunday to the Provost of the City, and their stalls stood on the roadway in front of their tenements. The butchers, as other traders, were under the inspection of city officers—the 'Carneratores' or 'Cadaveratores'—but they were a troublesome lot, and gave their inspectors plenty of work.

Equally important was fish in an age when fast-days and Lent were a reality; it was sold on stalls in the High Street, and these, as other stalls, were a royal monopoly, and the occupant of a stall paid to the King a custom of a farthing a day. The import of dried fish, stockfish, was a common trade, and 'stockfishmonger' not unfrequent as a description of a man's trade; but the trade was a distinct mystery from that of the fishmonger, and sellers of stockfish and dried herrings are often fined for encroaching on the fishmongers' prerogative by selling fresh fish. The limits of their trade are jealously guarded by the fishmongers, and an eating-house keeper who exposed for sale salmon uncooked has the fish seized by the bailiffs and half of it confiscated and sold.

Naturally the mediaeval system of trade involved a complicated code of rules and endless supervision for their enforcement, and the rules of the craft aimed at securing the interest of manufacturer and consumer by bringing the processes of manufacture and distribution into the light of day and keeping them under the observation of the community. Possibly in course of time regulations were better observed, and the tradition of observance is more fixed, but in the Court Rolls of Edward I and the earlier rolls of Edward III an immense amount of space is given to reporting trivial breaches of trade regulations.



## VII

### THE CITY'S RELATIONS WITH ITS ECCLESIASTICAL NEIGHBOURS

THE course of City life was closely dependent on its relations with its three great ecclesiastical neighbours—the Bishop of Winchester, the Prior of St. Swithin's, the Abbot of Hyde. The Bishop, of course, had far the greatest influence of the three over the prosperity and happiness of the citizens, and an important fraction of what we now think of as Winchester was under his direct rule. Cynegils, King of Wessex, is said to have bound his son Kenwalh to swear to grant to the see all the land for seven leagues round the City,<sup>1</sup> and though on the west and north this did not reach to the actual walls, and left an extensive suburb on those two sides under City jurisdiction, on the south and east the suburbs were on Bishop's land and under the Bishop's government. This formed the Soke of Winchester, the most populous part of which lay between the river and the slope of St. Giles's Hill. It was approached through the Eastgate, which stood on the City side of the river, and its main street was the first stretch of the Roman road to Porchester, running parallel to the left bank of the river. The street took its name 'Chesil' from that fact, the word denoting gravel (A.S. *ceosel*), and was in fact the Strand of Winchester, always called 'Chesil' or 'the Chesil', with the usual fourteenth-century variations in spelling—never 'Chesil Street'. But outside King-gate and Southgate also there was no inconsiderable population in the twelfth century. In the survey of 1148 the Bishop is returned as having some eighty tenants outside Southgate, besides ten more paying rent to the Prior of St. Swithin's; and beyond King-gate, the Bishop has thirty-six and the

<sup>1</sup> Kitchin, *Obedientary Rolls*, p. 224, note 1. The numerous charters however of lands granted to the see make it clear that all its property was not acquired at the same time. See *E. H. R.*, vol. xxxv, p. 382. *Leuca*, the word used for 'league', probably here denotes 'mile'. See Bateson, *Leicester*, ii. 208, note 2.

Prior thirty, besides a few who are tenants of St. Mary's Abbey. The occupants are of the ordinary city class, so far as can be judged from such descriptions of status as are given—priests, bakers, cooks (i.e. eating-house keepers), shoemakers, drapers, weavers, a chaplain, a servant, a doctor. The area is not described in the earlier survey of Henry I, which was made to ascertain the liability of the King's tenants, and we have no means of supplementing the one by the other, or of getting evidence of increase or decrease of population.

The suburb to the west formed part of the City, and was not in the Bishop's Soke. At the time of the first survey there were some sixty tenements there, all, with one partial exception, on King's land. Many of the houses were recently erected on what had been waste spaces and curtilages, not a few by encroachment on the King's highway. In the survey of 1148 the number has increased to over 120 separate holdings, some of which are gardens. There was a monastery there of St. Waleric,<sup>1</sup> and one charitable tenant had built a hospital 'for the love of God', and another, also for the love of God, had six 'bordelli' as lodging-houses for poor persons. King John, who stayed much in Winchester, had a mews, a place for his hawks, in the suburb. Charters recording transference of property in the late thirteenth and fourteenth centuries speak of streets—Wode Street and Athelynge Street—lying to the west of the King's ditch (the Castle moat) and the City ditch, which extended from the Westgate to the Northgate; the Usages speak of the 'parrocs' or pens for the cattle-market, and we have mention of 'herbaria' or kitchen gardens, the origin possibly of the modern 'Arbour'.<sup>2</sup>

<sup>1</sup> Domesday Addit., 536 B.

<sup>2</sup> In the time of William de Ralige, Bishop of Winchester 1243-9, and in that of his predecessor Peter des Roches, an encroachment had been made in the north and the western suburbs, and half a street in each had been appropriated by the Bishops and treated as part of their soke. The consequence was that weavers evaded the King's dues by moving their looms to houses in these streets, the Bailiffs being prevented from entering the premises to enforce the City's rights by taking distraint. Early in the reign of Edward I a jury is directed to make inquiry into the encroachment, and its finding, which is among the miscellaneous Exchequer Records, was printed by Smirke in the *Archaeological Journal* for 1850 (p. 374).



The City had no voice in the government of the Soke, except that the two coroners appointed for the City and by the City do duty in the Soke also. The intimate communication between Soke and City for trade and social purposes inevitably led also to encroachment by the City authorities on this side, and we have a sharp letter addressed to the Mayor from Bishop Beaufort,<sup>1</sup> peremptorily ordering that the City shall cease to meddle with his tenants 'de par de la'—that is, on the other side of the river. A few years later (1451) there is a covenant between his successor, Waynflete, and the Mayor and Commonalty of Winchester, whereby the latter acknowledge that they disturbed the Bishop in his franchises and customs at his Fair of St. Giles's last past, and covenant that he shall not be so disturbed in future.<sup>2</sup>

References to differences with the Bishop occur occasionally in the compotus rolls. In 1 Richard II, when Wykeham was Bishop, three citizens were sent to his manor at Esher 'to speak and treat about having peace with the Bishop'. In 34 Edward III a similar deputation had been sent to do business with Bishop Edington, but there is no indication this time to show that the business was of an unpleasant nature. At Burgh-mote in 12 Henry IV, the Mayor with the ex-Mayor and four other citizens, including Richard Wallop and William Wode, who are often employed as City counsel, are empowered to come to a settlement with the counsel of Bishop Beaufort on certain matters in dispute between the City and the Bishop. But the Bishop is in any case a powerful neighbour with whom it is desirable to keep on good terms. The City makes efforts not only to win his favour, but to have on its side his servants and officials, who are constantly the recipients of presents. In 7 Henry VI a shilling is given to the Treasurer's Serjeant at Wolvesey 'for making the Treasurer a friend'. In one year (34 Edward III) the gifts take the form of foot-gear, and the Bishop's cook, his messenger, the marshal

<sup>1</sup> p. 187. The letter is undated; Beaufort was made Cardinal in 1426, and as he styles himself Bishop only, the letter must be earlier than that year.

<sup>2</sup> The document, which is in English, is printed as No. 21 in Herbert's *Calendar of Charters*.

of his Court, his groom, all receive pairs of 'calige', which are probably gaiters or gaskins, valued at prices, varying with the rank of the recipients, of eighteenpence or two shillings. But it is the Bishop himself who at all costs is to be placated, and who is the chief recipient of the attentions of the citizens. Sheep and oxen, fish, bread, and wine are given him with patriarchal prodigality, and there is nothing to indicate that these are in the nature of dues on which he had a legal claim, for they are always classed under the heading of 'dona et exennia'. In 1360 he has two oxen, four swine, twelve sheep, and four calves, costing with carriage £4 8s. 4d.; in 1394 fish, probably stockfish for his household in Lent, at a cost of £3 6s. 8d.; in 1397 an ox, three pigs, six sheep, and twenty-four capons. In 1353 wine and its carriage for the Bishop cost the City £9 12s. 11d., and in 1354 £10.

The time when the City felt the power of its great neighbour most acutely was the fortnight in September, when the Great Fair was held on St. Giles's Hill. We have already spoken of what this meant to the Mayor and the City officials,<sup>1</sup> and the complete abdication of their power to which they had to submit while the Fair lasted. That the citizens felt the restriction to their liberties there can be little doubt; the covenant with Waynflete is evidence of their attempts to resist, and the final scene on the last day of the Fair is one of civic rejoicing; nor is it possible to magnify the effect of the Fair on the City. Not only was self-government in abeyance for the time; all trade within the walls was at a standstill, and could only go on in the Bishop's Fair. Cobblers and tailors must go up to St. Giles's Hill to work, bakers might continue to use their ovens in the town, but samples of their bread had to go to the Pavilion, and if the loaves were short in weight the baker was at the mercy of the Bishop's Court for fine or pillory. The Bishop's officers might enter the City and assay and taste one by one all casks of wine for sale in the City, be they where they might, and if they found any mixed or stale or unwholesome, they should draw them out of the cellars, knock

<sup>1</sup> p. 41.



off their heads, and heavily fine the innkeepers or owners, the fine being paid to the Bishop.<sup>1</sup> All legal business was transferred to the Bishop's Court, the Pavilion, whose name 'Pavilionis Aula' still lingers in the 'Palm Hall', well known on St. Giles's Hill. This is the Bishop's Court of Pie Powder,<sup>2</sup> where the law merchant was administered. The citizens were strangers in this Court, and it was the Bishop's tenants of the Soke who owed suit there and were bound to come 'on the vigil of St. Giles' day before six in the morning to make their suit of service at the Pavilion and shall be prepared with horses and arms as often as shall be needful'.<sup>3</sup> The City did what it could to protect its own interests by sending an attorney to the Court to represent the citizens, and to see that cases proper to the City Court should not be taken there, and a fee to the attorney and to the clerk of the Court for admitting him occurs regularly in the account.

The Fair must have been a source of immense profit to the Bishop. Not in Winchester only did the Bishop's monopoly stop all other trade; even at Southampton<sup>4</sup> all trade except in victuals was transferred to St. Giles's Hill; the monopoly extended to a radius of seven leagues<sup>5</sup> round Winchester, and guards were set at points towards the outer edge of the circuit to take toll of all saleable goods that passed over the bridge or along the road which they watched. Merchants came to the Fair from abroad and from all England, and in many places the Fair counted as a prior engagement that was reason for putting off local business. The Husting of London did not sit during harvest, Boston Fair, or Winton Fair; at Leicester the Fair of Winchester is treated as a reasonable essoin for the non-appearance of a burgess in portmanmote.<sup>6</sup> 'To Wy (Weyhill) and to Wynchestre', says Avarice in *Piers the Plowman*, 'I went to the faire.' To the manufacturers of Winchester it was the clearance of the year's accumulation in excess of the local demand; to the householder it was the annual chance of replenishing the stock of all those articles

<sup>1</sup> Kitchin, *St. Giles' Fair*, p. 54.

<sup>3</sup> Kitchin, *ib.* p. 49.

<sup>5</sup> or miles, see above, p. 86, note 1.

<sup>2</sup> See below, p. 140.

<sup>4</sup> *ib.* p. 52.

<sup>6</sup> Bateson, *Leicester*, i. 161.

that were not produced in his own town, from a needle to a cask of wine, from a ferret to an ape or a bear, and for each and all of them the Bishop took his toll.<sup>1</sup>

The Priory of St. Swithin was a closer, if less formidable, neighbour. A long-standing cause of difference, the custody and maintenance of Southgate and 'Kyng-gate', was removed amicably in the latter half of the thirteenth century. The Mayor and Commonalty acknowledged that the gates were the property of the Priory, and the Priory undertook to maintain and guard them, but to open and close them at the bidding of the Mayor or Bailiffs.<sup>2</sup> But there was an enclave of special jurisdiction in the middle of the town that was the cause of more continuous trouble. It is now known as 'God-begot House'; in the Survey of Henry I it is 'Godebiete', but we find also the forms 'Godebighute', 'Godebighot', and other variants. The name is generally held to imply that it was property devoted (O.E. *begēat*) to God when it was granted by Queen Emma to the Priory, but a charter of William II (1096) given to Bishop Walkelin confirms to St. Swithin's the tenure of the house of Aluric Godebegete, as if Godebegete were a surname.<sup>3</sup> The Priory had its own Bailiff there and claimed to hold its own court, and to withdraw from the City Court any of its tenants who were prosecuted in it. In 27 Edward I a defendant, John de Reding, was claimed for trial by the Bailiff of 'Godebighute', and the entry in the margin of the City Court Roll (where the scribe always records penalties and results), the single word 'Godebighot', would imply that the claim was allowed and the case transferred. Unluckily, de Reding was fined by the City Court for another offence and this instance is not conclusive. In 18 Richard II the City paid a large sum (£6 os. 4d.) for legal expenses in London in a suit between itself and the Priory, which may have arisen from the same cause of irritation. In 4 Henry IV, Thomas Wady was called to account for allowing himself to be summoned by the Prior to his court in 'Goudebeyete'

<sup>1</sup> Kitchin, *ib.* p. 55.

<sup>2</sup> A facsimile of this document is in W. H. Jacob's *Inventory, Winchester*, 1906, and a description is given in the *Calendar of Charters*, No. 5.

<sup>3</sup> *E.H.R.*, No. 139, July 1920, p. 388.



and not informing the Mayor of the fact, an offence against the oath he had taken as a gildsman.<sup>1</sup> A few years later (in 14 Henry IV) the Sheriff sends a King's writ to the City Bailiffs, ordering them to arrest Richard Rede to answer before the King's justices at Westminster. The Bailiffs arrest him within the limits of 'Goudbiyete', 'ut plenius est infra libertatem Civitatis Wyntonie.'<sup>2</sup>

The other 'soke' of the Priory in the High Street, the Clothe-selde acquired in 1330, has been referred to already, but it seems never to have provoked controversy, and the rights of the lordship must have been allowed to lapse.

There was always a temptation to the citizens to use the Priory Close as a thoroughfare, giving, as it did, convenient access to the suburb and meadows to the south. But it meant passing through the actual church, for the present 'slype', the passage through the buttress at the south-west angle of the church, was not opened until 1633, and laymen trespassed on the cloister, which was the private property of the Priory and the place of the monks' study and meditation. William of Wykeham, with his strong sense for reality in collegiate life, resented the disturbance in the devotions and duty of his monks that the abuse led to, and in a petition to Edward III (1374) moved the King to direct the Mayor to have proclamation made in the City that the practice must cease. The document is an illustration of the almost poetical language in which business touching religion was expressed, as well as a proof of how high Wykeham's standard was for monastic life. The monks, he complains, dwelling in a Cloister, 'where they should have their feet restrained by the bond of fixed abode, diligently employing themselves in contemplation, devotion, and intercession,' are exposed to 'distraction, grave scandal, vain cogitation and idle delight by the aspect and confabulation of secular persons, nay, of persons of ill repute of either sex, passing therethrough'; 'no small losses and thefts have occurred through such thoroughfare in reliques and jewels and other things belonging to the said Church purloined and

<sup>1</sup> Black Book, fol. 14 a.

<sup>2</sup> Black Book, fol. 14 a.

nefariously alienated beyond recovery'; 'the cloistral contemplation and meditation of the monks is in manifold ways weakened, to everlasting loss to the souls of the faithful for whom they ought to pray and to whose benefit their services should tend': and he prays that the King, 'of the dew of his kindness and grace', will apply fitting remedy. The King, recognizing that those who live and ought to live given up to the regular observance of the virtues should have power to serve the Lord more securely than of wont, that 'all occasion of wastage being banished the example of their laudable living may become a good odour for the Glory of the Divine Name, and the dangers of the distraction aforesaid may for ever be laid to sleep according to the pious intention of the founders', sends a letter to the Mayor and Bailiffs directing that it should be read in the City, and that which is contained therein proclaimed and observed.

Hyde Abbey was something of a thorn in the side of the City. The monks were traditionally litigious, and the Abbot is a frequent suitor in the City Court in cases affecting the Abbey's landed property, and his own commercial dealings, for, Abbot though he is, he has business relations that justify his description on the Court rolls as 'Mercator'. The principal point at issue was the limits of City jurisdiction and Abbey property on the north side of the City. Like the other suburbs, that outside the Northgate was of considerable extent. The survey of 1148 gives fifty-three tenements there held either of the Bishop or of the Abbot, but the area counted as part of the City. Hyde Street or 'extra Northgate' was the sixth Street-ward, and murage and tallage were levied from it by the City Collectors. The City claimed power to serve summons within the Abbey precinct. In 27 Edward I, John the Mason, 'resident within the gate of the Abbey', was summoned at the suit of Nicholas the Goldsmith to the City Court. The summons was delivered by the Serjeant at the Abbey gate. The defendant made no reply, and the Serjeant was then ordered to direct the janitor to tell the Abbot, or his *locum tenens*, to produce John in court. At the next court



there was still no appearance, and distraint was ordered; we are not informed explicitly of the result, but as in the fourth court the plaintiff, Nicholas, was fined 'pro falso clamore', it would seem that the jurisdiction was admitted, the defendant appearing and rebutting the charge.

The dispute was renewed in the reign of Edward III, ending in a suit against the Abbey for encroachment, which was only decided in the Court of King's Bench in the reign of Henry IV (1409). Outside the Northgate was the City moat, crossed by a bridge from which the roads divided for Andover and for Basing. The moat and a strip of land a hundred feet wide on the north side of it, extending as far as the 'Bow', an archway where the stream (the King's brook) passed under the walls into Upper Brook Street, was known as the 'Waldych' and was City property. Northward again of this was Danemark Mead, an acre of which had been granted to the Abbey by Edward I, and at a later time the Abbot had encroached on the Waldych and made other enclosures which the City resisted. He had also converted the doorways of five houses in Hyde Street so that they opened on the Abbey, and access was only through the Abbey gate. The City declared this prevented it from levying the tallages and rates on the houses to which it was entitled, for it could take no distress for tallage unpaid without access; the Abbot replied that from time immemorial the houses had been within the Hundred of Micheldever and the City had no rights over them. The case was tried at the assizes at Winchester, and the result reported to the Court of King's Bench. Three points out of the four in dispute were given in the City's favour; an endorsement on the document records a 'loveday', a friendly arbitration, held later and attended by representatives of Abbey and City for fixing the boundaries of the Waldych.

If in this case the honours were divided, though unequally, in the first year of Henry V the City completely routed its old opponent. The then Abbot, John London, had a claim on the holdings of Thomas Asshe and Alice Bolt within the City. He wished to prevent the case being tried in the City Court,

and with this object he brought an action of 'novel disseisin' (i.e. unlawful dispossession) before the Justices of Assize, and, by a fiction that had been customary, named the Mayor and Bailiffs disseisours, and therefore defendants, in order to nullify the rights of their Court. Unluckily for him, the Parliament of Gloucester (14 Henry IV) had recently enacted a statute dealing with this abuse, and providing that if by collusion or fraud Mayors and Bailiffs were so named in order to exclude the jurisdiction of their local Court, the Justices of Assize should quash such writs of assize of novel disseisin. The City obtained a writ from Henry V directing that the action should be quashed and the Abbot punished 'according to the form of the said statute'.<sup>1</sup>

But it would be unjust if what has been said left the impression that the normal relation of the City to its ecclesiastical neighbours was one of hostility, especially to the Bishop and the Prior. Territorial lords as they were, their interests clashed at times with those of the City, and it is such disputes that bulk largest in the rolls, but there are many instances where the Mayor or a deputation from the City goes to meet the Bishop in which there is no indication of anything but courtesy and friendliness. It would be inconceivable that men like Edington and Wykeham should not have won the love and respect of the citizens, and there are cases where bishops, Sandale for instance, and Fox, rendered them conspicuous service by exerting their influence on their behalf.<sup>2</sup> There were many natural and friendly connexions, too, between the Soke and the City; private citizens had lands and tenements there, the transfer of which was enrolled in the City Court, and the City itself acquired a valuable piece of property, the Fishbed, in what is now Water Lane, which was within the Bishop's jurisdiction, and was never a cause of trouble. Exceptions prove the existence of a rule, and the exceptions that are prominent in records extending over a considerable period of time and imply occasional hostility, are consistent with a normal condition of peace and goodwill.

<sup>1</sup> Black Book, fol. 16 b.

<sup>2</sup> See below, pp. 103 and 112.



## VIII

### TAXATION

TAXATION in the Middle Ages, like taxation at the present day, was both local and national, direct and indirect, but with the difference that local indirect taxation has, with a few unimportant exceptions, entirely disappeared, whereas in the Middle Ages it was fully half of the financial burden a citizen had to bear. In Winchester he paid it in two forms: either on imports into the City, the duty on which was collected at the gates and in the Staple, or as market and sale dues. These were collected in the King's name and originally by the King's officers, but the City had long had the right of collecting them itself, compounding for them along with the other King's dues by a fixed annual payment, so that though a part went ultimately to the King, and was in reality a disguised form of national taxation, they came to be in practice local taxation. Some of the sale dues, though of course falling in the long run on the consumer, were in the nature of rent. Much of the ordinary selling went on in the streets; the streets were the King's soil, and a trader who occupied the 'solum regis' paid for the use of it, whether he were a butcher paying a penny a Sunday, or a fishmonger a farthing a day for his 'bord' or stall, or a woman bread-seller two shillings a year for the standing of her basket in the High Street or sixpence in side-streets. 'No man may have a bord save only the King.'<sup>1</sup> The mere breaking of the soil to fix the posts for a stall involved in most places a tax to the Crown called *picagium*. Most of the King's dues, however, are taxation and not rent. The Usages give very full details of the charges levied both in the market and at the gates. The scale of the latter is complicated by the difference made between the franchised and the unfranchised importer, and our estimate of the toll actually levied is liable to be incorrect unless we bear this dis-

<sup>1</sup> Usages, §§ 29, 35, 38.

tion in mind. As a rule, the franchised trader escaped the octroi dues at the gates or paid on a reduced scale; franchise meant membership of the Merchant Gild, and, as all the regular importers would be members of the Gild, it would only be peasants, fishermen, pedlars, and producers who belonged to no Merchant Gild that paid the higher dues. Merchants of other towns that had a Gild similarly privileged to that of Winchester enjoyed reciprocity of treatment and paid no more than the local merchant. The Oak Book of Southampton begins with a list of the boroughs of England, with particulars of their Charters, to assist the Bailiffs, as Dr. Studer suggests in his Introduction, in deciding which traders from other towns could claim exemption from toll. Winchester is not in the list, possibly because the question had been settled by a special agreement in 49 Henry III, by which burgesses of Southampton and members of the Merchant Gild of Winchester are reciprocally free from all dues except *tronage* and *pesage*.<sup>1</sup> Winchester had won similar exemption from toll in other towns by its first Charter, and equally with Southampton reciprocated the privilege to those that had the right to claim it. In 32 Edward I an agreement was made between the City and the Mayor, Aldermen, and Sheriffs of London for mutual concession of relief to their merchants of all dues except *tronage* on wool, and this was renewed in 10 Henry IV,<sup>2</sup> after the City had sent in a detailed list of unfair exactions and had its claim backed by a royal writ to the Sheriffs of London.

The trader out of franchise paid import dues on everything. Where the franchised fishmonger paid for his stall alone and nothing at the gates, the stranger paid for his stall and  $2\frac{1}{2}d.$  a cartload on his fish as well; the burgess cattle-dealer paid nothing, the non-burgess sixpence, even if he brought in a single beast; for herrings alone are the two classes equalized, both paying sixpence and a pitcher of wine. For wheat the burgess merchant paid nothing, the non-burgess a halfpenny a load; and there is a long list of miscellaneous articles (§§ 49–58) with varying dues up to fourpence a load from which the

<sup>1</sup> Black Book, fol. 17 b.

<sup>2</sup> Black Book, fol. 3 b.



burgess merchant is exempt. The total imports of the unprivileged must have amounted to very little ; in the Bailiffs' account for 28 Edward III,<sup>1</sup> unfortunately the only Bailiffs' roll which we have among our records, the total amount received from customs levied at the gates, apart from fish and herrings, is only 12s. 8d., and from the insignificance of the total it would look as if practically the whole of the trade, including the grain consumed in the City and grown by neighbouring farmers, were in the hands of privileged merchants. Undoubtedly many of the articles specified in the list would come into Winchester at the time of the Great Fair, for it was the Fair that attracted the crowd of outside merchants, and the Bishop, not the City, would reap the advantage of the tolls, but even so it is remarkable that the receipts at the gates are so small. At the end of the thirteenth century they had been much greater ; in a record which belongs to an early year of Edward I<sup>2</sup> the takings from the two sets of customs levied at the gates are estimated at £7, the custom on fish at £4, and the 'pesage' at only £2. In the account rendered by Adam de Wynton<sup>3</sup> for little more than four months the customs at the gates amount to £3 1s. 11d. Did the King, then, or the Commonalty, which took his place as receiver of custom, get practically nothing from the taxation on imports into the City ? The answer is to be found in the Staple account of the year 27 Edward III. Receipts of £47 1s. 3¼d. are accounted for in that year by the receivers of 'pesage' and customs, and a comparison with §§ 43-5 of the Usages shows that goods were liable to a tax by weight, called 'pesage', payable by merchants of whatever franchise they may be. Wool is dealt with in the first of these clauses. Being the raw material of the City's chief industry, it came in in large quantities ; the regulation is not stated very clearly, but a merchant paid one penny for parcels of a hundredweight brought in at one time : smaller parcels, it would appear, were brought in only by dealers not of the franchise, and these paid on a graduated

<sup>1</sup> See below, p. 179.

<sup>2</sup> Smirke, in *Archæol. Journal* for 1850, p. 377.

<sup>3</sup> See above, p. 8.

scale. The second clause deals with what we have learnt recently to call 'fats', taxed by weight in the same manner as wool, and the third with 'all manner of goods whereof the pesage belongs to the King'—that is, general goods not included in the exceptions specified later in the Usages. It is clear from the Staple account that the weighing and payment for these imports were made in the Staple, and it was there, and not at the gates, that the bulk of the import dues were collected. And it is important to notice that when reciprocity is granted to external merchants and they are exempted from dues at Winchester, 'tronage' or 'pesage', the dues by weight collected at the Staple, are always excepted.<sup>1</sup>

We must not confuse the local Staple of Winchester with the national Staple. The latter was a custom-house in which export duty was collected on wool sent abroad. Previous to 1326 there had been a single Staple abroad, at St. Omer, but in this year the policy of a single Continental Staple was abandoned and fourteen Staple centres were formed in England at important places, such as York, Newcastle, Exeter, Bristol, and Winchester, for the collection and examination of wool before it went abroad and before it was delivered to the home manufacturer. But in 1353 the policy was again reversed: the Winchester Staple ceased to be a national custom-house, and the national or export Staple was fixed at towns on the Continent—Antwerp, St. Omer, and finally Calais—and this was the gate through which English wool must pass to reach the Continental manufacturer. After 1353 it would seem that the Winchester Staple was used for the receipt of wool and other material on which the King's dues were collected which were to be used by the City manufacturers, becoming a centre of business connected with these trades, and ceased to have a place in the national economic system. There is no reference to any use of the Staple in connexion with the national revenue in our documents: the management and care of the buildings was in local hands: the revenue derived from it was accounted for by City officers (the

<sup>1</sup> Black Book, fol. 3 b.



pesager or ponderator is on the list of City appointments), and other goods besides wool passed through it. The great City weighing-machine, the tron, was kept there, which in the eyes of the citizens had a sacramental value as the symbol of their mercantile independence, and the return of which from St. Giles' was a City festival.<sup>1</sup> The business of the Staple was not confined to weighing goods and receiving dues; brokers attended there, and their fees are an item in the receipts; the City even undertook the packing of wool and supplied the sacks, 'sarplars' and pokes, for the purpose.

The Staple, with the houses and gardens which formed part of it, covered a considerable space. Part of it was rented from the Prior of Mottisfonte for an annual rent of four shillings and a pound of pepper (pepper costing in the fourteenth century 2s. 6d. a pound), part from the Prior of St. Swithun's for 7s. 8d. a year, and part again from the Abbot of Hyde. Besides the business premises there were houses let to private tenants, gardens, and a paddock, the grazing and produce of which bring in a small amount yearly. The repairs often cost the City a considerable sum, and what is required is levied by a special rate on the same principle as that for murage. But the Staple rate differs from the murage rate by being levied for a smaller number of weeks (five in the year 1353) and only on four of the six street-wards, Hyde Street and Colebroke Street being exempt. Like the murage rate, it seems to point to some form of *corvée* which the King had had the right of exacting for the repairs of the buildings, and which survived as a money payment when the Staple was administered by the citizens.<sup>2</sup>

To the other dues which, though paid in the first instance by the merchant or manufacturer, fell ultimately on the consumer, is to be added ulnage, the duty on manufactured cloth levied at the time of sale. It was collected by County Commissioners, and, going as it did direct to the Crown, it is imperial not local taxation, but grants were made from it from time to time for City purposes. In 1389 the grant is of £20

<sup>1</sup> See above, p. 41.

<sup>2</sup> See below, p. 103.

for eight years in aid of murage; in 1393 this is increased to £26 for five years; and in our accounts for 1397-8 that sum is entered as received from John Fromond as 'de ulnagio pannorum', Fromond being either the King's Collector or the farmer of the ulnage.

We cannot say how much of the Staple receipts are on account of wool alone, otherwise we might have made some estimate of the amount of the woollen manufactures of the City. Wool would be certainly the largest of the imports, and might possibly account for as much as £40 out of the £50 to which a year's dues amounted. At one penny the hundredweight<sup>1</sup> this means a weight of 480 tons. A chalun of the largest size, 90 inches wide,<sup>2</sup> would weigh about 2 lb. to the yard, but there is a loss in spinning and in oil weight, and it is probable that a hundredweight of raw wool would make not more than 30 yards of chalun. In the days of hand-loom weaving, a Scotch weaver, I am informed, working at large size blankets would do about 15 ells of 45 inches in a day of ten hours, and the ell would be reduced to 38 inches when finished—that is, a mediaeval worker might use a hundredweight of wool in two days, or, allowing for holidays and short time in winter, five or six tons in the year. This would allow for between 80 and 100 looms for the weaving trade of Winchester if all were employed on work of this standard, but smaller chaluns and the finer kind of weaving would take longer time, and 150 to 200 looms is perhaps nearer the mark. Add to this the labour employed in spinning, and in fulling and dyeing and the subsidiary and finishing processes, and it is reasonable to say that the imports of raw wool would make employment for nearly 500 hands, a not improbable number in a population that could not greatly have exceeded 5,000.<sup>3</sup> This agrees roughly with an account

<sup>1</sup> Usages, § 43.

<sup>2</sup> Above, p. 81.

<sup>3</sup> It has been calculated that the number of inhabited houses in early Angevin times was 1,200; allowing five persons to a house, this makes a population of 6,000. The prosperity and with it the size of the town continued during the thirteenth century, but diminished rapidly towards the end of the fourteenth.



of the revenue from the looms which we have for a portion of the year 3 Edward I, when the City was in the hands of Adam de Wynton, who had taken it over from the Mayor by the King's order, from 20th May to Michaelmas. An account for a portion of the year is not conclusive evidence for the whole. The receipts, however, for this third of a year are £3 4s. 6d. from burellers' looms, and twenty-one shillings from tapeners'; burellers paid five shillings a year for their loom, tapeners either a shilling or sixpence. If the receipts for a third of the year represent that proportion of the year's receipts, there would be some forty burellers, and perhaps ninety tapeners. Woollen cloth, however, was not the only product of the loom; linen was woven in considerable quantity, canvas too was made from hemp (*cannabis*), 'canevaser' being a common trade designation.

#### *Direct Taxation.*

Direct local taxation consisted in (1) the regular rate for murage, and (2) irregular 'tallages' or 'subsidies' for City purposes and special objects.

Maintenance of fortifications with service in the fyrd, or militia, and repair of bridges, formed the 'trinoda necessitas', the obligation which every freeman was under even before the Conquest. The citizens of Winchester were free of military service, but they had to maintain their own walls and gates (except Southgate and King-gate, which were repaired by the Priory of St. Swithin), and their obligation was discharged by payment of murage. The provision made for these charges varied in different towns. At Oxford the burden was thrown on certain 'mansiones murales', the tenants of which were free from all other taxes. At Chester it was thrown on the county, one man of the county serving for each hide of land.<sup>1</sup> In general the obligation was discharged by personal service.<sup>2</sup> When the Hospitallers are declared free of murage, it is not the tax but the labour from which they are exempted, 'de operibus

<sup>1</sup> Stubbs, *Const. Hist.* i. 102.

<sup>2</sup> *Ib.*, p. 118.

castellorum . . . et omnimoda operacione'<sup>1</sup>; and there is a feature in the mode in which the rate was levied at Winchester that suggests that there too it had originally been personal labour, a *corvée*, compounded for later in a money rate. It was voted by the Commonalty in Burgh-mote in the form of a certain sum on each Street-ward for a given number of weeks, twelve, sixteen, or eighteen, as the case might be, the method being the same as that used for repairs of the Staple.<sup>2</sup> The distribution of the sum levied over a number of weekly payments certainly suggests that the rate was composition for a service originally continued through a number of weeks, afterwards transmuted into money payment. The rate was collected by the Aldermen of Street-wards, and the weekly total of the rate is stated which was due from them. In 1355 murage produced £18 4s. 3d., the weekly apportionment for eighteen weeks being:—for High Street, 9s. 6½d.; for Tanner Street (Lower Brooks), which was the manufacturing quarter, 5s. 3d.; Gold Street (Southgate Street), 2s. 10d.; Jewry Street, 1s. 7d.; Northgate Street (Hyde Street), 1s. 5½d.; Colebrook Street is omitted in this particular year. A few years later we have a detailed list of the payments of individual householders in a roll, the heading of which is obliterated, but the date must be shortly after 1360. The product is only about half that of 1355, and the rate must have been for not more than possibly eight weeks. The contributing tenants are about 370, their highest payment being 2s. 8d., the lowest a penny. Other rolls suggest that a farthing a week was the lowest rating; a cottage attached to Durngate pays that sum, and when murage is remitted on the ground of poverty it is invariably a farthing a week.

The murage rate was frequently insufficient for its purpose. As far back as 1228 a grant in aid is made by the King of fifty marks, and certain customs are extended from various periods from 1234 to 1317.<sup>3</sup> In 1316 John de Sandale, Bishop Elect, took up the cause of the City, and at his instance Edward II

<sup>1</sup> See Salter, *Mun. Civ. Oxon.*, p. 75.

<sup>2</sup> Above, p. 100.

<sup>3</sup> *V. C. H.* v. 4.



wrote to the 'probi homines' of Winchester granting them for seven years certain additional tolls on goods coming into the City, which are set out in detail and include corn, raw materials, food, and every conceivable import.<sup>1</sup> The difficulty, however, continued, and in 1389 a grant was made from the ulnage<sup>2</sup>. But the cause of the trouble seems to have been that many householders escaped the rate; the number mentioned above, 370, is out of the question as a total of all the inhabited houses of the City, and in 1385 power was given by the Crown to compel all tenants and all who lived by trade and got gain to contribute, and the liability was extended to the suburbs. The royal interference was necessary, for power to levy a rate for the repair of walls had to come from the King.<sup>3</sup> Accordingly we find in later accounts (e.g. 22 Richard II), besides the regular murage collected by Aldermen, a further receipt from collectors of murage 'by concession of our lord the King'; it amounted generally to about two-thirds of the regular murage. This rate is called 'pondagium', sometimes fully described as 'pondagium pro reparacione murorum per concessionem domini Regis', and allowance made for voids, paupers, and absconders show it to have been, like the ordinary murage, a household rate. It is probable that it resulted from the powers given in 1385 to make the rate compulsory on all householders and fell on those who had hitherto escaped. Even with this relief the City could not make its murage account balance, and in 2 Henry IV the fee-farm rent was reduced by forty marks for a term of six years 'for the common profit of the City and for the repair of the walls'.<sup>4</sup>

The second form of direct local taxation was the levy for special purposes. Levies thus made varied immensely both in number and in amount. Want of system and foresight in providing for expenditure and equalizing it over successive years is a feature of mediaeval finance; the primitive character of the mediaeval banking system would not help such foresight,

<sup>1</sup> Sandale's *Register*, p. 354.

<sup>2</sup> See above, p. 100.

<sup>4</sup> Black Book, fol. 7 a.

<sup>3</sup> Pollock and Maitland, i. 662.

and except for murage there is no evidence of regular annual provision for regular services. The cost of sending burgesses to Parliament is sometimes paid from the general fund, but occasionally, as in 1371 and 1406, there is a special rate for the purpose. The tallage for 'business of the City' or for 'sundry businesses' may produce £20 in one year, £10 in the next, and in 1377, after £7 19s. 0d. has been so raised, there are two more separate rates of £5 and £5 5s. 1d. for special legal business in London. In 1357, the year after the Battle of Poitiers, the City gave a present to the Black Prince. The fund was raised in the first instance by loan from prominent citizens, the names of forty-eight of whom are given, and afterwards the loan was repaid from the proceeds of a levy; it is characteristic of the finance of the day that £3 is withdrawn from the purpose for which the fund was raised and used for a present to the Bishop.

Was the 'subsidy' or special levy a 'rate', i.e. proportioned to the annual value of the tenement, or was it proportioned to the citizen's general capacity to pay? There is little doubt that it was not the former. At the close of the period we are considering the City became the landlord of house property, and it so happens that the first Chamberlains' roll, that of 25 Henry VI, which gives the rents received from any considerable number of City houses, follows close on the first of our subsidy rolls, that of 24 Henry VI. The latter is a list of persons paying a levy for the expenses of sending burgesses to Parliament. The total amount raised is not stated on the roll, and some of the figures are obliterated, but it must have been nearly £17. The landlords of the two great inns of the town, the George and the Sterre, let at a rent of £6 and £3 10s., pay only twenty pence and fourteen pence respectively, whereas Peter Hille, the tenant of a City 'tentorium' paying 6s. 8d. rent, is charged eight shillings as subsidy; but Hille is evidently a prosperous fuller and the profits of innkeeping even on a large scale may not have been excessive. William Coupere, a carter, pays six shillings for his cottage and sixpence in subsidy, John Rolles twenty shillings in rent and only fourpence in subsidy. And all



the facts show clearly that there was no assessment based on the value of the tenement occupied. It is consistent with the usual practice that the assessors should rely more on their own knowledge of what a fellow townsman could afford to pay than on any mechanical rule for assessment from rent.

A third form of direct taxation is that paid by the entrants to the Gild Merchant,<sup>1</sup> the proceeds of which went to the City, not to any Gild fund. But there is a further tax, probably connected with membership of the Merchant Gild. There figures annually in the Chamberlains' accounts, up to the end of the reign of Richard II, a payment of a mark apiece from eight persons called 'fodarii'. They are arranged in four pairs; their names are always given; many of them attain afterwards the highest office in the City; and in some cases they are 'fodarii' the year after their admission to the Gild. I have been unable to find the word used in the registers of any other town that I have examined; their payment was probably peculiar to Winchester, and we are thrown on our own records for an explanation.

There is an obscure passage in the Usages (§ 46), where the annual meeting of the Gild is described, which speaks of a division of the Gild into 'four houses'. The four pairs of 'fodarii' may be connected with this fourfold division of the Gild; the sum collected at the meeting is not retained by the Gild but paid over to six 'prudeshomes' who represent the Commonalty and the Twenty-four, and possibly the fodarii may be the stewards of the four divisions of the Gild who make the collection and pay the proceeds to the City treasury. Further, the Gild meeting, even for such serious business as the admission of new members and the levy of money, was a social function; the Usages describe it by the usual term 'drinking the Gild', and those in charge dealt with the social as well as the financial side. It happens that in one year (33 Edward III) in the place in the compotus roll where we should expect to find the contribution of eight marks from 'fodarii'; eight marks are accounted for as received from

<sup>1</sup> See above, p. 73.

'homines festantes'. It is not unreasonable to suppose that both terms are used as equivalents for the stewards who manage the festival of the Gild meeting and pay over the proceeds to the City. It is true that the payment is a fixed sum and not the varying sum we should expect if it were the proceeds of a levy. But the tendency of the financial system of the time was to commute variable contributions into fixed sums: it was done for the King's dues, for the tenth voted by Parliament, and probably for murage also, and it is quite consistent with the usual practice to have so commuted the payments of the Gild in the fourteenth century.

If this explanation is right, I conclude that the Merchant Gild paid to the City not only the entrance-fees of new members, but the proceeds of an annual levy from the whole of its body. This is in accordance with the account given in the Usages, and it is more likely than that a limited number of persons were called on once in their lives to make from their own pockets a contribution to City finance; for it is paid in money, not in kind; it is not a public service, the cost of some public need, borne by wealthy men, like the 'liturgy' or discharge of a state service borne by an Athenian citizen. The system of payments by *fodarii*, however, comes to an end soon after the reign of Edward III, the last receipt from them that is recorded being in 2 Richard II. The Merchant Gild was then becoming a poorer body.

National direct taxation was even more irregular and intermittent than local, but when it did fall it fell more heavily. Parliament granted the King at varying intervals, according to the needs of the State, tenths and fifteenths. Tenths were levied on towns, the lighter fifteenth on shires, but in 1321 a sixth was voted for towns and a tenth for shires.<sup>1</sup> The tenth was originally a 10 per cent. tax on the value of all movable property; armour, horses, jewellery, domestic utensils, and stores being excepted. It fell, therefore, most heavily on the manufacturing classes. The method of collection is defined in a writ of Henry III (A.D. 1225) for the counties of Derby

<sup>1</sup> Ballard, *B. C.*, p. xciii.



and Nottingham. There are to be four County Commissioners to whom the towns pay over the contributions collected by themselves within their own area. The procedure described in our rolls is in agreement with this. Winchester appoints four of its citizens to assess and collect the tax, and they pay over the proceeds to the four County Commissioners, whose receipt in some cases is preserved. The assessment was made in reliance on what were the usual guarantees for veracity in the Middle Ages—the sanctity of an oath and the certainty that a man's affairs were known to his own locality. Every householder declares the value of his movables on oath, and does the same for two of his neighbours, and he has the security of appeal to a jury of twelve 'probi et legales vicini'.

The tenth followed the invariable rule of all the King's claims on the City, and what was originally a varying sum was compounded for at a fixed rate, and it was left to the City to apportion the burden among its own people. The amount for which it was thus liable was £51 10s. 0d., and receipt is given for this sum, with one or two trifling variations, for the series of years so far apart as 26 Edward III and 9 Henry VI (1352 to 1430). In the last year it is spoken of as a fifteenth, though of precisely the same value as a tenth, as though the old theory of its relation to an individual's movable property were only formal, and the City, not the individual, had become the unit of contribution. For this year also we have the names of the individual contributors, but without the amount paid by each. There are 458 of them, of whom thirty-eight are women; the trade designation is unfortunately given for only twenty-eight, but five of these are described as servants of a named master, and it is certain that the poorest householders were nominally liable; at a much later date (33 Elizabeth) the comparatively large sum of forty shillings is allowed for tax irrecoverable from the poor. If we may estimate by comparison with the murage roll, which gives us the contributions for individuals, the amount paid as tenth would vary from five pence to fourteen shillings. But even the tenth, heavy as it was in comparison with other taxes, was not a great burden if

it were imposed every two or three years; the interval, however, varied with State necessities, and is sometimes very short. It is levied in three consecutive years of Edward III, and four of Henry V for which we have records; it is raised twice in the second year of Richard II, and a tenth and a half-tenth fall in the fourth year of Henry IV. The Hundred Years' War was an exceptionally costly time, and in normal times a tenth was not granted by Parliament in every year.<sup>1</sup>

<sup>1</sup> In the fifteenth century the burden of local taxation is reduced by the considerable income derived from the rents of City property, but this property only came into the hands of the City after the beginning of that century and does not affect the position of the citizen in the period with which we are more immediately concerned.



## IX

### CITY EXPENDITURE

THE first charge on the City revenues was the payment to the Crown of the hundred marks for which the King's claim to rents, dues, and customs was commuted. The whole is spoken of as '*firma burgi*', and was regularly accounted for by the Bailiffs at the annual Easter '*profrum*', in the Court of Exchequer. The second was for expenditure for general City purposes, defrayed either by the Mayor or by the Chamberlains. Third were repairs of walls and gates paid from the murage rate, and repairs to the Staple paid out of the Staple account.

It is the second of these heads of expenditure from which we get most light on town administration. The objects on which the City had to spend money were mainly six: (1) the payment of burgesses in Parliament, (2) the cost of the visit of the Mayor-elect to Westminster, (3) repairs to City buildings, (4) legal expenses, (5) payments to the few City officials, (6) entertainment and presents for distinguished visitors and their dependants. Other charges there were, of course, from time to time, but these recur with fairly annual regularity.

(1) The Resolution of the House of Commons by which payment was made to Members of Parliament was spoken of at the time the measure was adopted as a recurrence to an old system. So it is, but with a different meaning. Attendance in Parliament is now regarded as a service to the State and is paid for by State; originally, from the point of view of the Crown, burgesses were present to give their consent to the voting of money, but from the point of view of the borough this was not the whole meaning of service in Parliament. Parliament was a court, and in an age when the title to land was constantly in dispute and civic liberties depended on special concessions and local custom, it was the most certain means of protection to bring a case before Parliament. In the

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Paston Letters we have constant instances where Parliament is appealed to for the defence of rights in individual cases, and municipal rights equally were in need of protection from encroachment. In paying for the attendance of its representatives a borough felt that it was getting value for its outlay, and it paid them because it was for the interest of the borough that they should be there. In our own rolls the burgesses are often spoken of as being in Parliament 'for the City', 'for the profit of the City', as serving the City, not the State. The City does not hesitate to call their payment 'wages', and it even proportions the payment to the business done. In 2 Richard II Stephen Haym has two shillings a day for being in Parliament in London, but he also receives £3 os. 4*d.* 'for divers businesses done in the said Parliament'. In the last year of Henry V the two burgesses, John Frensh and Thomas Coteler, besides their twenty-four shillings for twenty-four days in Parliament, receive the one fifteen shillings 'in rewardo Parliamenti', the other two shillings for defending the exemption of the citizens from acting as collectors of King's money in the county. The usual payment is a lodging allowance of two shillings a day, with sometimes a further allowance for horse hire, and so the cost to the City varies with the duration of the session and the distance of the town in which it was held. A Parliament at York in 1394 meant £10 15*s.* 0*d.*, and the highest payment is £13 16*s.* 8*d.* in 8 Henry IV. On the other hand the Parliament of Shrewsbury (21 Richard II) cost only £3 for the fees of the two burgesses; that of 27 Edward III, when W. de Wynesflode and Roger Germayn were burgesses, £3 15*s.* 0*d.*, and in the previous year, when only one representative, Ralph Beauchamp, was sent, only twenty shillings. When Parliament met at Winchester, as it did in 45 Edward III, there is no item in the account for payment of burgesses, but indirectly the presence of Parliament was as costly as its absence, for £4 12*s.* 0*d.* is allowed for augmentation of the Mayor's household 'on account of Parliament and the coming of the lords'; and in the first year of Richard II, when Parliament met in the City



in the autumn, besides a sum of £2 for similar augmentation, a weekly expenditure is incurred for the three weeks of the session for stores and wine amounting to £5 8s. 1d. The total for this year is above the average cost of sending representatives to a Parliament held elsewhere.

(2) The obligation of the Mayor-elect to take the oath of allegiance before the Barons of the Exchequer has been mentioned already.<sup>1</sup> In the fourteenth century this never cost the City more than a regular sum of £2, with a fee of 4s. 6d. for engrossing and sealing the commission; but the visit to London was an attractive one, and the next century thought more of ceremony and had less means of paying for it. The fellow citizens who were willing to join in presenting the Mayor increased in number; they had to be suitably dressed, and it came to be thought that the dress need not be paid for by its wearers. The representation grew to be a costly burden on the citizens, till finally in Tudor times we find them appealing to the charity of Bishop Fox to help them in bearing it. He helped them out of his own purse. 'The ordinarie charges herof cost this noble man xx *li.* and above.'

(3) Repairs to City buildings, such as the roofing of the Court-house, entail but a small expense in the fourteenth century, but in the fifteenth, when the City comes to have more and more property in its own hands, having built the Sterre Inn, acquired Lucy Fry's tenement, the lease of the Fish-bed, various 'tentoria' used by the fullers, as well as the Coitebury and City Mills, the annual cost becomes greater. The system is developed, however, of keeping a separate account for each property, so that the outgoings do not appear as a charge on the general revenue, but later in the century, when the City property has increased very greatly, the City has its own stores and a staff of its own and repairs fill a large space in the annual accounts. The repair of gates and walls, of course, come out of the murage fund.

(4) The expenditure on legal and general business naturally varied from year to year. A small regular charge was that

<sup>1</sup> p. 20.

for an attorney to represent the City in the Bishop's Court at the time of the Fair;<sup>1</sup> it was usually half a mark for the attorney and two shillings for the Bishop's clerk for admitting him, but if there was business there might be a further payment to the attorney of a couple of marks. The main part of the legal expenditure was incurred either in the protection or assertion of the rights of the City in the Courts in London, or in business dealings, not necessarily unfriendly, with the Bishop. I have dealt with the latter already.<sup>2</sup> I would add one other instance, where in the year of Wykeham's consecration (1367) five leading citizens were sent to him to present a document (*billa*), probably in connexion with his assumption of the see, and receive £1 12s. 5d. for their expenses. Legal expenses in London were often very heavy. In the first year of Richard II £7 7s. 6d. was paid for expenses in connexion with the renewal of the City Charter, part of the cost being in procuring a copy of the Oxford Charter. This is the Charter<sup>3</sup> which recites and confirms that of Edward III. In the same year there was the considerable fee of five marks (£3 6s. 8d.) to William Pedelyvere, counsel in the King's Bench, as well as smaller fees to other counsel. In 45 Edward III £2 was paid to the clerk for being nine days in London 'ad prosequendum pro stachiis<sup>4</sup> et aliis libertatibus civitatis'. In 12 Henry IV William Wode was sent to London, at a fee of 3s. 4d. a week and his expenses, to represent the City in its dispute with the Abbot of Hyde.<sup>5</sup> In some form or other, legal expenditure, especially in the employment of counsel, occurs in most years, but there is no permanent appointment of counsel with a fixed annual fee before A.D. 1425, when Richard Wallop held this position.<sup>6</sup>

(5) City officers were in nearly all cases unpaid; they held office as a rule for one year only, and it is a part of the burden which a citizen expressed his willingness to bear when he took

<sup>1</sup> Above, p. 90.

<sup>2</sup> p. 88.

<sup>3</sup> No. 14 in the *Calendar of City Charters*.

<sup>5</sup> Black Book, f. 10a, and see p. 94.

<sup>4</sup> See p. 128.

<sup>6</sup> Above, p. 50.



the oath on admission to the Merchant Gild. In the period we are dealing with I can find no evidence of payment to the Mayor, whatever may have been the practice later. The earliest mention of such payment is in 20 Henry VI (1441), when it is decided in Burgh-mote that he is to have ten marks 'pro hospicio suo manutenendo ad honorem civitatis'; five years later this payment is treated as a payment for service and is made to him 'pro feodo suo, de hoc quod fuit Maior'.<sup>1</sup> The Bailiffs had the insignificant perquisites of five lampreys out of every hundred coming to the town, and a pitcher of wine from sellers of herrings in Lent,<sup>2</sup> and the Mayor has a claim on the weavers which is somewhat obscurely expressed in the Usages (§ 12). The Aldermen and Bagmen who collect fee-farm rents, fees of entrants, &c., are allowed the fee of 4s. 6d. for each pair; collectors of special funds sometimes a small sum 'for their labour', and the service of a paid clerk is allowed for making up the account, but even the Chamberlains receive nothing, at all events before the reign of Henry V, and in general it may be said that the chief municipal duties were discharged by unpaid labour. The only officers who are regularly paid are the Clerk and the four Serjeants. The Clerk receives £2 a year from the Bailiffs and a livery; he has certain small fees, a penny a head, for example, for enrolling the names of dealers, and it is possible that the fees charged for a clerk for special work from time to time may go to him. The Serjeants receive a livery and gratuities (*oblaciones*) and the four City minstrels are also provided with livery. The visit of the Clerk of the Market entailed considerable expense; he has to be lodged and entertained with his clerk and servants, and in some years there is what would seem to be a fee of £2 to him for a payment to him personally; but his visits were irregular, and the expense should be classed with the legal and business expenditure of the City and not as a salary.

(6) A heavy expenditure, the heaviest in fact of the six

<sup>1</sup> Black Book, fol. 26b, and Compotus Roll of 25 Henry VI.

<sup>2</sup> Usages, §§ 33, 34.

classes of expenditure we have distinguished, was that on entertainment, presents, and gratuities. It is difficult for us now to realize what an importance this had in City life and the conduct of City business. It was not only that distinguished visitors had to be entertained and fees paid to their servants ; the former duty is still a recognized voluntary 'liturgy' of the City's Chief Magistrate ; nor was it only that there were powerful people with whom it was desirable to be on good terms. Even judges receive presents, and it was necessary when the City was involved in any dispute to secure at least the interest of men in high judicial place who were in a position to damage or promote the City's cause.

We are accustomed to think of the obligations and rights of a corporation as being precisely defined by statute, and of legal decisions being given on principles ascertained from examination of previous decisions. In the fourteenth century, when rights and obligations were individual to each town and not common to the whole country, and legal procedure and methods were still in the making, it was advisable to get the ear of the judicial authority, and a town with a case to be heard in London and to be tried on principles of equity realized that its fate depended on the personal view taken by the judges. Not that it was felt that judges were guided by no principle—only that it was advisable that suitors should be known to them and they should be interested in them. Hence legal business in the Courts at Westminster meant attention and civility to the justices, and the practice of receiving gifts from suitors grew up that cost Francis Bacon so dear at a later time. At Exeter in the fifteenth century there is a serious dispute between the Corporation and the Bishop, and the Mayor goes to London to watch how things are going. He is not content with passively watching ; he makes it his business to see the Chancellor and the two Chief Justices. Being a man of the world and a genial fellow, he is soon on good terms with them ; he is invited to their table, and discusses with them the merits of the case that is afterwards to come into their Court. He takes also with him a



present of fish for the Chancellor, 400 'bukhorn' (dried whiting), and seven congers, and though we may not say in return for his presents, yet as being a man to the Chancellor's liking, he has the Chancellor's advice on his pleadings, and even gets him to correct them himself.<sup>1</sup>

Winchester had not the advantage of a Mayor so successful in society, but when the City had business in the London Courts it was found advisable to pay more than civil attention to the King's Justices. In the second year of Richard II, when the City again sends representatives to London in connexion with the renewal of its Charter, the enrolment is made in the King's Bench. Besides fees to officials, there are gifts to the Chief Justice, Sir John Caundiche (or Cavendish), who afterwards perished in Jack Straw's rising, and to another justice of the King's Bench, Sir Robert Treshulyan (Tresilian), who was hanged for treason in 1388; Caundiche has two pounds, and Treshulyan one. These were clearly not felt to be bribes; they are a means of interesting a judge in a suitor. When the King's Justices come to Winchester for Assizes it is the duty of the City to provide for their board; usually simply bread and wine are sent to the Justices, costing only a small sum, but the expenses of Sir Henry Kersy in 1360 increase at each assize, five shillings for the first, ten for the second, sixteen for the third. Besides this he is presented with a gold ring, costing ten shillings, and his clerk and servant each with a pair of shoes.

Sheriffs' claims to benevolence had been successfully resisted at an earlier date,<sup>2</sup> but the Sheriff of the County still receives a present when he comes to Winchester, and in this year he has £3 as a gift and is entertained at dinner at a cost of 16s. In 1394 the Sheriff is Sir J. Sondes; he is staying at Hugh Cran's inn, and has three gallons of wine sent to him there; later in the year he stays at Thomas Warrener's with his wife, and the City sends him as a gift an eel (probably, from the price, a conger), costing two shillings, and wine, one shilling. Quarter Sessions are also the occasion

<sup>1</sup> *Shillingford Letters*, pp. 9, 18, 23, 146.

<sup>2</sup> See p. 31.

for festivity. The country gentlemen who come up for them are met on easier terms than the Lord Justice of Assize. In 1406 the Mayor entertains Richard Wallop and John Fromond, the Justices of the Peace, and other guests at the Easter Sessions at Aubrey Werdman's inn at a cost of 4*s.* 7*d.*; later in the year at the Summer Sessions (the Monday before St. Swithin's Day) the Mayor and Knights of the County meet in the tavern of Mark le Faire, a former Mayor. There is no visitor of importance who is not entertained, or has not a contribution to his own board and a gratuity to his servant.

A large sum is swallowed up in these gifts; messengers and heralds, bearers of a writ from Westminster, great men's servants, above all their minstrels—for no lord of distinction travels without his minstrels—all have gifts. In 1397 the King (twice over), the King of France, the Duke of Surrey, the Duke of Aumarle, the Duke of York, the Duke of Exeter, all have minstrels, generally three apiece, each set taking a quarter mark (3*s.* 4*d.*), or five shillings, from the City. We have spoken of the interesting case of the present to the Black Prince,<sup>1</sup> and of the presents to the Bishop, as well as the hospitality involved in the Mayor's daily routine of business. In 31 Richard II 'the Mayor's expenses with gifts' amount to £13 16*s.* 0½*d.*, and of this a little over £3 might be said to be spent for business purposes; the rest is all for gifts and entertainment. The whole revenue passing through the Chamberlains' hands for the year is £60 0*s.* 9*d.*, of which £40 12*s.* 8½*d.* is spent on the special purpose of repairs to the walls, so that more than half of the general expenditure is for gifts and feasting.

A word should be said about the system of account keeping and finance. The prominent features are the great variations in the amount raised from year to year, and the multiplicity of small funds. In 18 Richard II there are six separate funds, all of them gathered in at separate times by separate collectors; they are: (1) the regular dues received by Aldermen and Bagmen for rents and from entrants; (2) murage from Alder-

<sup>1</sup> p. 105.



men; (3) pondagium collected for the same object but by different officers; (4 and 5) two separate levies for City business, one of ten marks, the other of £13 13s. 7d.; (6) a tenth, which was national, not local, taxation. The citizens, that is, were visited five times in the year by the rate-collector, once by the tax-collector. Occasionally the rate was anticipated by a loan, the amount required being provided temporarily by wealthy citizens. Such a system was unavoidable when in the absence of banks there were no means of meeting an immediate need by a temporary overdraft. There is an indifference to the scruples of strict finance in the way a fund is used for purposes for which it was not raised, and the surplus of one is used to make good the deficit of another. Often this is no more than a formal irregularity, for the money came out of the pocket of the City, whichever pocket that might be. We find the Staple receipts providing for charges so different as part of the fee-farm rent paid by the Bailiffs, part of the Mayor's petty disbursements, a present of wine to the Bishop, and the expenses of Burgesses in Parliament; but it is going rather far when it is also used to help out the deficit in a national tax, the tenth voted by Parliament, and that a tax for which a definite and separate assessment was provided.

Small inaccuracies in account-keeping are not uncommon; addition and multiplication are often inexact, but inaccuracy is hardly blameable when arithmetic has to be worked in Roman numerals and an account occupies a length of some feet in a parchment roll. The two sides of an account do not always balance, nor does the balance at the end of one year always agree with that credited at the beginning of the next. An audit, however, was held annually by eight auditors, four appointed by the Twenty-four, four by the Commonalty, and the audit was no formality. Items are frequently crossed through or marked in the margin as 'disallocati'. In one year (4 Henry V) collectors of murage are detected in concealing the names of men in their aldermanry liable for the rate, and the auditors debit them two marks for negligence and default, but a small sum is remitted on their plea that the fault was due

to ignorance not to negligence. The audit lasted two, sometimes three, days, and there is commonly a charge made in the account for the expenses of Mayor and auditors in wine, or for dinners given them by the Mayor. The regular time for it was within the twelve days after Christmas, but in the fifteenth century it was found advisable to hold it at a date nearer the end of the civil year, and it was voted in Burgh-mote that it should not be more than one month after Michaelmas.<sup>1</sup>

<sup>1</sup> Black Book, fol. 18b.



## X

### THE CITY COURTS

IN some towns, the constitution of which originated in a grant from a lord, the townsmen, having been his tenants, 'owed suit' to the lord's Court—that is, were bound to make attendance there, and had to take their part in making its decisions, an obligation which continued after the grant of a Charter. In Winchester no such duty fell in practice on the individual citizen. The City Court may originally have been the Court of the whole Commonalty, and, indeed, the theoretic position of the citizens as judges of the Court is recognized in the Charter of 30 Elizabeth, which calls it the Court of the Mayor and Commonalty. But the only Court of the Commonalty, the Burgh-mote, exercised, so far as our Records give us information, no judicial functions. In the fourteenth century the City Court, whether sitting for ordinary purposes, or to administer Merchant Law as the Court of Pie-Powder, consisted of the Mayor and Bailiffs, and the only service rendered by the citizens was that of furnishing juries.

The Charters granted to the City recognized the existence of local custom. That of Henry III confirms to it the use of its own Court, and with certain exceptions exempts citizens from the necessity of pleading elsewhere; it accepts the custom of the City as defence in pleas of the Crown; it allows all questions affecting land tenure within the City to be decided also 'according to the custom of the City', and continues to the City its own customary procedure. The local customary law of a town was not identical with that of other towns, and though the tendency from the twelfth century onwards was to subordinate local law to the common law of England, many points still survived in which local law retained its individuality. We have mentioned the case of Leicester<sup>1</sup> with its local law of succession; by the custom of Nottingham a favourable

<sup>1</sup> Above, p. 2.

position was given to a widow in claiming from her husband's estate.<sup>1</sup>

Winchester, too, had customary law of its own. The procedure followed by a landlord in recovering his tenement forms the subject of an interesting stake-roll for 25 Edward I, which we fortunately have preserved to us.<sup>2</sup> In recording the transfer of property it is often added to the roll that the alienator is of full age to give quit-claim 'according to the custom of the City'. The Court is extremely careful of the rights of women, and when husband and wife alienate their property, the record of the earlier period invariably adds that the wife has been separately examined, and that it has been found that she is acting of her own free will, without compulsion; for by the alienation of the estate of her husband a wife would lose her right of claiming dowry from it after his death, and local custom on this point varied.<sup>3</sup> The Winchester custom limiting the power of the holder of property by devise to alienate is mentioned in the 'liber assisarum',<sup>4</sup> and the warranty there stated to be inapplicable in certain cases is regularly given in others.

In procedure as well as in law Winchester had its own individuality. 'Thai be derenyet (offer their defence) be the law of Winchester, that is throu the acquittance of xii lele men that are burgess', says an old Scottish fragment quoted by Miss Bateson.<sup>5</sup> The 'Usages' devotes a considerable space to a description of the procedure of the Winchester Court in summoms, adjournment, and essoin, and of the practice in land registration and the enfeoffment of successors to property.<sup>6</sup> The tedious repetition of summons and adjournment is not so bad in Winchester possibly as in other places;

<sup>1</sup> See a case quoted in *Nottingham Records*, i. 168, where a widow claimed a moiety of her husband's land on his death; the next heir alleged that the claim was 'contra legem communem absque speciali causa'; the plaintiff replied that it was the custom of the English borough of the town of Nottingham, and the parties agreed to inquest as to the custom.

<sup>2</sup> See below, p. 128.

<sup>3</sup> Bateson, *B. C.* ii. 103.

<sup>4</sup> K. Digby, *Hist. Real Property*, p. 271.

<sup>5</sup> *B. C.* i. 46.

<sup>6</sup> But for the tendency for the procedure of the King's Court to become the procedure of all England, especially in the generation succeeding the date of our version of the 'Usages', see Pollock and Maitland, i. 184-5.



Oxford, for instance, allowed an *essoin* to be repeated nine times; but the abuse is respected with what in the fifteenth century becomes a wearisome fidelity.<sup>1</sup>

The civil business of the City Court includes the verification and registration of transfers of real property; it authorizes proceedings for the ejection of tenants; it deals with breach of contract, breach of warranty, damage to person or property, 'trespass' in the general sense of the word; but far the larger part of its time is taken up with cases of debt and claims arising from the detention of chattels. Cases are brought before it on the King's writ requiring the Mayor and Bailiffs to see that justice is done. 'A royal writ was a necessary for one who was claiming freehold; it was a luxury for the creditor exacting a debt, for the local courts were open to him and he could proceed there without writ.'<sup>2</sup> It is not easy to see on what principle the use of the writ where it was optional was determined, but plaintiffs at Winchester often avail themselves of whatever gain it added to their cause. Juliana de la Floude has been prevented using the water in the 'Brooks'; she brings her case into Court under a King's writ, and inquest is made by a jury of twenty-four, which finds that the water is for the common use of the citizens, and that Juliana is entitled to protection against interference in using it.<sup>3</sup> Quite trivial cases may be referred to it in the same way. When Nicholas le Keu of Chilbolton is threatened by William le Mouner (the miller) he procures the King's writ. On the other hand, when Henry Dalron has to answer John of Kerdyf within fifteen days at the King's Court at York for a debt of £37, the magnitude of the sum is probably the reason why the case is transferred to the Court of King's Bench, which has followed Edward I to the North.

There was no right on which the citizens insisted more strongly than that of suing or being sued in their own Court only. In particular, they resisted any extensions of the functions of the Bishop's Court which sat in the 'Pavilion' on

<sup>1</sup> See below, p. 137.

<sup>2</sup> Pollock and Maitland, i. 195.

<sup>3</sup> Court Roll of 27 Edward I.

St. Giles' Hill during fair-time. There are several cases of prosecution of citizens who have taken cases into that Court which might have waited till the City Court was resumed after the fair, or who have allowed a suit to remain in the Bishop's Court in the interval between two fairs. In a Burghmote of 8 Henry IV there is a formal declaration of the principle and a fine of twenty shillings fixed for the violation of it.<sup>1</sup> The use of the Courts at Westminster was as jealously watched as that of the Bishop's Court on St. Giles's. In 6 Edward IV so important a citizen as John Kent is bound under a penalty of £20 to desist from an action that he has brought against John Calley in the Court of King's Bench.<sup>2</sup> As early as 23 Edward I William Sayer and William of the Temple endeavour to dispossess Isabella, the widow of another William Sayer, of her tenement. Possibly Isabella was the mother or stepmother of the first-named William, and the case may have been one of the right of dowry, which the 'Usages' specifies as within the power of the City Court to deal with (§ 63, 9). The Williams begin their action before the Justice of Assize, but the Mayor and Bailiffs intervene and claim that, by old custom recognized in the Charter of Henry III, such cases should be heard in the City Court.<sup>3</sup> A jury of six citizens and six 'foreigners' is empanelled to examine the claim and they give their verdict in the City's favour.

There were other possibilities of encroachment that needed care. We have mentioned already the sokes of Godebiere and the Cloth-selde, and their claim to withdraw their tenants from pleading in the City Court. The Constable of the Castle also had his own Constabulary Court. In 27 Edward I Henry Dalrun, who has a house in the High Street, is prosecuted for a nuisance in allowing his storm-water to escape over his neighbour's ground. Dalrun is a litigious fellow whose name occurs in every month of the year's Court roll, and he urges the plea that as his tenement is held of the King and his Constabulary of the Castle, his case should be heard in the

<sup>1</sup> Black Book, fol. 5b.

<sup>2</sup> Black Book, fol. 29b.

<sup>3</sup> Black Book, fol. 19b.



Constabulary Court. The Sheriff's deputy appears and claims jurisdiction for the Castle; the plaintiff appeals to the well-established principle that he shall not be required to plead outside the City. The decision was deferred, and as we have not the next year's roll we do not know what it was, but there could be no fear of the City surrendering on so vital a point. The City franchise in legal as in other relations was set about with dangers, and weakness in resisting them would have impaired it seriously; it is not surprising that it was willing to spend considerable sums and raise special tallages 'pro libertate manutenenda' (e. g. in 31 Edward III).

At a later time, some years after the statute of 1344 which was the origin of the Courts of Quarter Sessions, an attack was made on the City jurisdiction from a different quarter. Queen Isabella, to whom the King had granted the fee farm of the City, sent her steward, Sir John atte Lee, and others to hold sessions within the City. The citizens protested to the King, and represented that the Queen was thereby withdrawing from them the revenue derived from fines and convictions which they had hitherto enjoyed. She was clearly attempting to set up within the City, for her own profit, a Court of Sessions similar to that authorized by the new statute for the County.<sup>1</sup>

It is difficult to fix exactly the upward limit of City jurisdiction in both civil and criminal matters. 'Pleas pertaining to our Crown' were reserved for the King's Court, the citizens being allowed only their own custom in defence by the Charter of Henry III. In early times the King's justice could only be obtained where the Court was, i. e. either at Westminster or during the King's progresses; the change, which dates from the reign of Henry II, and is indicated in the assize of Clarendon, made the King's justice accessible locally by the system of itinerant justices, Justices in Eyre, visiting the shires. City business which had to be reserved for the King's Court would be dealt with in the county by the itinerant justices according to their commission—it might be for gaol delivery,

<sup>1</sup> The Queen died in 32 Edward III, the petition was answered in the Parliament of 35 Edward III. (Black Book, fol. 5b.)

or it might be an 'iter ad omnia placita', the General Eyre which dealt with all kinds of business. Towns owed suit at this Court, and a writ of Henry III addressed to the Sheriff of York directs that four burgesses and the provost should attend from each of the ancient English townships.<sup>1</sup> The writ being of general application, the obligation to send representative burgesses would apply to Winchester, and we have occasionally in the compotus rolls items for wine for the Mayor and his fellow-citizens returning from the Assizes held in Winchester Castle. Certain of the more important questions affecting the tenure of land had become matters for the cognizance of the national Courts, and could only be taken into the local Courts by royal writ, making the law of succession to property a matter of national concern.<sup>2</sup> These were matters for the assize of novel disseisin and of mort d'ancestor, both of them forms of action for the possession of real property. But the object of the enactments was the limitation of feudal jurisdiction, not the abolition of town custom; it is expressly stated in the Usages (§ 63. 9) that the City Court was competent to deal with 'bref de novele deseisine', but the King's writ was required before a case was brought into the local Court.<sup>3</sup>

There is uncertainty also in fixing the upward limit of the criminal jurisdiction of the City Court. The privilege of different towns undoubtedly varied; even as late as 1920 the Court of Sessions of the Liberty of Peterborough was found to be trying a case of perjury. The custom of Peterborough originated in a grant of Edward IV to the Abbot, conferring on him the right to appoint judicial officers who should have the power of gaol delivery,<sup>4</sup> and it was only recently brought into line with the general practice of the country by a decision of the Court of Criminal Appeal based on general principles. We cannot expect uniformity of jurisdiction in local Courts in the fourteenth century. Yet even within the same town the great constitutional movements of the country induced a continuous change. The policy of the great legislating kings, Henry II

<sup>1</sup> Stubbs, *Select Charters*, p. 349.

<sup>2</sup> Pollock and Maitland, i. 146.

<sup>3</sup> See above, p. 122.

<sup>4</sup> *Times Law Report*, 22 Dec. 1902.



and Edward I, transferring to the Crown Courts powers that once belonged to the local Courts, diminished the activity of the latter. This is specially true of criminal jurisdiction. At one time the Winchester Court had the power even of mutilating felons; in the fourteenth century there is little serious criminal business; when we get to the fifteenth century all of it has disappeared from our Court rolls. The pleas of the Crown were gradually extended in number, and an increasing list of offences was reserved for royal justice in the Court of the County presided over by the itinerant justices; even larceny, in its form of 'grand' larceny—theft, that is, of goods above twelve pence in value—was withdrawn from local Courts in or about the time of Edward I.<sup>1</sup> But we must not accept as applying to Winchester, with its inherited and prescriptive rights, what is true of other places without actual examination of our own rolls. Again, even if a serious offence is heard in a Winchester Court we must distinguish what were matters for simple inquiry and had to be transferred to a higher Court from offences that the Court had power to punish itself. It was the Coroner's business to see that there was no encroachment on the Crown's monopoly in dealing with the former. Hence, though we find cases of felony examined in the Winchester Courts in the reign of Edward I (e. g. in 24 Edward I), we find no instance where the Court punishes. In any case felony is rare, and it so happens that in the roll we have of this year the only convictions are of clerics, and they are handed over to their ordinary for punishment, and the only laymen who are charged are acquitted. But by the end of the fourteenth century even presentment for felony has disappeared from the Court rolls. The same applies to what we think of now as petty police-court business, the cognizance of minor misdemeanours which was the duty of a Court that had, as the Winchester Court had, 'view of frank-pledge', and to the obligation of enforcing those blessed securities to the house-keeper of the Middle Ages, the assize of bread, and the assize of ale, and of punishing violations of the complicated municipal

<sup>1</sup> See Pollock and Maitland, ii. 495-6.

regulations for securing fair-dealing in market or sanitation in streets and water-courses. In the Court rolls of Edward I and Edward III we have the Court of Mayor and Bailiffs dealing with these matters—minor assault, hue and cry raised without due cause, brewsters (and a large proportion of the City housewives brewed for sale) selling ale above the regulated price, poultry-sellers 'forestalling' by waylaying peasants on the roads and buying their cocks and hens before they reach the gates. When we come to the reign of Henry IV all this business has vanished from the rolls; either there is a distinction, as is implied by the Charter of Elizabeth, between the work of the Court of Mayor and Bailiffs meeting twice a week as a Court of Record, and its work as having View of Frankpledge 'on the days accustomed', no record being kept of the latter, or else, though taken at all meetings of the Court, it is considered no longer a matter of sufficient importance to appear on the rolls of a Court of Record.

Let us look first at the records that are left to us. The first roll is a fragment, undated, but which, from the references in it to previous years, must belong to the fifty-fourth year of Henry III (1270). It records eleven meetings of the Court from Wednesday, 20 March, to Tuesday, 22 April. At these there is one charge of assault; two defendants are bound to find security for good behaviour, though there is nothing to show what their behaviour had been; all the others are cases of debt, detention of chattels, or 'trespass', the sort of cases that arise in the course of trade or the dealings of civil life. A weaver, for instance, has bought Spanish wool to the value of £12 and cannot pay for it; a merchant of Southampton claims for a debt of £29 and brings his tally in proof. Many of the cases are adjourned; the defendant putting in his *essoins*, or being given time to 'make his law'<sup>1</sup> and bring with him at a future court the required number of compurgators, whose oath with his own will clear him. Roger Dalron and Roger Mortimer are allowed to settle out of Court at a 'love-day', a friendly arbitration where the litigants, after receiving the

<sup>1</sup> See p. 139.



sacrament together, try to come to agreement in the presence of neighbours. But being a fragment this roll tells us little of the range of the Court's jurisdiction; we have not even the usual heading declaring the Court to be the Court of the City held before the Mayor and Bailiffs, nor have we any of the frank-pledge presentments which throw so much light on street and slum life in the next reigns.

The next roll is nearly thirty years later. It is a 'stake roll of the twenty-fifth year of Edward I (1296-7), and as such illustrates a totally different side of the Court's work—registration of transfer of real property, and authorization to a landlord for recovery of his tenement when rent is in arrear. The procedure agrees exactly with that described in the Usages (§ 63. 15). The landlord goes first to the Alderman of the Ward; the Alderman gathers a jury of neighbours and with them makes a 'view' of the property. If he finds nothing there to distrain for the unpaid rent he reports to the Court, and the Court gives leave to fix a stake before the door as symbol that the house is sequestered to the King and is under the King's ban. The landlord, therefore, is not yet free to take his own; he has still to 'sue the stake' twice more at intervals of a week, and once again after forty days, and after the sequestration has lasted year and day he has authority to enter on his property, if no one meanwhile has come to make satisfaction for the arrears. The roll of stakement for the year includes eighteen cases; in fifteen of these the plaintiffs in chief are the heads of ecclesiastical corporations—the Abbot of Hyde, the Warden of St. John's, the Warden of Magdalen Hospital, the Abbess of St. Mary's, the Abbot of Netley; and among the secondary claimants for rent-charges are the Bishop and the Prior of St. Swithin's. In the survey of 1148 religious corporations held many houses in the City, but if the proportion of clerical to lay litigants corresponds to that of clerical to lay owners in the early fourteenth century, we can understand how the growth of Church property necessitated a statute of Mortmain.

It is from the two next rolls that we learn most, both of the

powers of the Court and of the City life of the day. The first is for the year of 27-28 Edward I (Michaelmas 1299 to Michaelmas 1300). It is a roll of great length, twelve parchment skins of an average length of about twenty-one inches closely written on both sides, and it may give some idea of the nearness with which the administration of justice came home to an individual citizen to learn that there are some 770 separate names in the roll, out of a population which could not have exceeded fifteen hundred families. Of course, all are not plaintiffs or even defendants; some names are those of jurymen, some are defaulting jurors, or securities, some appear in connexion with a dozen cases of registration of property, but fully one half are the names of defendants, and all with very few exceptions are residents in Winchester. There are four charges of felony in the year, which if made good went on to another Court; if the criminal was a layman for trial before the itinerant justices, if a clerk he was handed over to the Bishop's Dean for punishment. Debt and trade disputes furnish the main part of the material for the Court's decision. The state of the currency at the turn of the century gave it considerable trouble; 'crocards' and 'pollards' were debased coins in circulation, and a creditor was bound to accept them at one-half of their face value. Naturally there were frequent refusals, and a debtor was often induced to contract out of his right and agree to pay in 'sterlings'<sup>1</sup> of the minting of the Tower of London. The tally or the indenture was produced as evidence of debt, both of them capable of being verified by comparison with the corresponding half held by the debtor, and I have found only one case in all the rolls I have examined of a charge of producing a false tally.

The roll of 24-25 Edward III is of interest because it brings out the relation of the Court to the system of frank-pledge. This is the only roll in which the presentment of offences, which it was the duty of those in frank-pledge to discover and report, is separately recorded as the finding of a jury. The invariable formula is 'duodecim presentant', followed by the

<sup>1</sup> The name for the silver penny.



name of the offender and the offence. As we have already explained, the ward, in a town, took the place of the 'tithing' in the system of frank-pledge, and the Alderman of the Ward that of the headman or 'chief-pledge' of the tithing. Had the formula been a little fuller we might have been able to determine more precisely the place of the Alderman. Was he above or below the jury? Did he report merely as a police officer and the presentment was then made by the jury, or did he summon a jury of his ward, as he did for stakement, examine the facts, and in their name make presentment to the Mayor and Bailiffs in the City Court? We have little to guide us in our own rolls, but as so often we have the analogy of other places. In his *Leet Jurisdiction in England*<sup>1</sup> Professor Hearnshaw gives a clear account of the procedure of a manorial Court having view of frank-pledge in 1340. A jury of twelve listens to the presentments made by the chief pledges, who in Winchester would be the Aldermen of Wards, to see that there are no concealments and to supply their omissions if there are any. But the presentment of the chief pledges and that of the jury are made independently; the jury, however, reviews the work of the tithing, and this would suggest that the Winchester Alderman in his Ward has no function higher than that of a police officer reporting to his superiors; he does not hold a Court in his Ward. Nor in the record of the City Court is the jury spoken of as a Ward jury; it is merely 'the twelve', as if it were one jury for the whole City receiving the presentments of the several Wards. Further, the twelve give a verdict as well as a presentment and the Court takes their finding as final and awards the penalty on it. First on the list of offences usually comes brawling (*hutesium*), and to the presentment is added 'ad iniuriam A. B.', implying that the jury has found that A. B. is in the wrong; or not uncommonly 'ad iniuriam utriusque', where both parties to the quarrel are to blame. Then follow the ordinary petty offences we have spoken of—clippings and loppings of trees left in the roadway, or evasion of the troublesome duty of the watch; in Tanner

<sup>1</sup> Southampton Record Society, 1908, p. 61.

Street the brook has been fouled with 'wod-gore', the refuse of the woad from the dyeing vats; the butchers are perpetually in trouble—they let blood and foul water flow into the street, they outrage delicacy of the public by slaughtering in the open, they disappoint its reasonable expectations by slaying a bull unbaited. Occasionally the twelve have a more serious case to present; as when on the feast of St. Simon and St. Jude they bring before the Court a theft of property in the convent of the Austin Friars by William Froyle, one of the brethren. All this is part of the Court's business as having the view of frank-pledge and has the first claim on its time. The details are alike lengthy and trivial and rolls of later date do not record this branch of the Court's business. It is not unreasonable to suppose that a court, which had a regard for its clerk's time and for the cost of parchment, ceased to record the petty misdemeanours reported from the wards or the markets, and the silence of the rolls of a later date is no proof that the jurisdiction had then been lost to the Court. 'Petty fines not enrolled', an item in the Bailiff's receipts for 28 Edward III, is of itself a proof that all the Court's work does not appear in its formal record.

Then follows the list of essoins and summons and repeated summons, of attachment and 'better attachment', that gave rise to the endless delays of a mediaeval Court. They are due mainly to the actions for debt and trespass that form the more serious business of the day. Every Court-day has a large crop of market and trade offences. They vary from trivial breaches of rules to the more serious crime of regrating and forestalling, or encroachment on gild monopoly, or illegal employment of apprentices. Sometimes it is a batch of bakers whose loaves are below the weight fixed by the assise, or of brewsters whose beer is below strength. A fine of threepence atones for these. Regrating and forestalling are punished more heavily. It was a common practice to meet the peasants who came in with poultry, or the fishermen with fish, outside the walls, and buy up their supply in the hope of making a corner in the market, or to buy up for



retailing the stock of bread delivered by the bakers before the authorized hour of noon.<sup>1</sup> Retailing did not mean selling in small quantities, but selling what you yourself had not made, and the community protected itself against artificial raising of prices by buying up what others had manufactured. More serious still it was to act as a Merchant without being a member of the Gild; to set an apprentice to work on a loom without paying the ten shillings to the Bailiffs; to entice away the journeyman of another master before the regular hiring-day; to manufacture in the Soke, or even to sell in the City bread that had been baked there. Worst of all was such an act of municipal treachery as to take a case into the Bishop's Court and let it remain there after the Fair was over.<sup>2</sup>

For all these offences the invariable punishment is fine. We may safely say that detention in prison was not used as punishment. It is true that in the Usages (§ 28) forty days in the King's prison is stated to be the penalty for regrating, but I have never found in the Court rolls such a penalty awarded. A defaulter may be forced into doing his duty by distraint of his goods; otherwise punishment is invariably by fine. Old English law tended to value offences in money, and it is the exaction of a fine, tempered by the liberty to find a security, that is the regular form which punishment takes for minor offences. Only when a convicted person, or a debtor, or a person arrested on suspicion, has neither goods to be distrained or friends to give security is he committed to prison. A cripple coming in from Bentworth with 'chalouns' that he cannot account for is taken to prison till their presumed owner can be found to prosecute; an old woman charged with stealing a hen appeals to her 'Country', and she too has to wait in prison till a jury is called together. The disciplinary use of imprisonment is an idea of later growth; in the Middle Ages prison was a place where a man was kept safe till the claim on him was satisfied. The Charters of Southampton<sup>3</sup> tell us that prison is for defendants who are 'minus sufficientes' (i. e. have no property), and a writ of Edward III to the Mayor and

<sup>1</sup> Usages, § 38.

<sup>2</sup> Above, p. 123.

<sup>3</sup> *Charters of S.*, i. 60.

Bailiffs of Oxford states explicitly that it exists for the safe keeping of the prisoners, not their punishment, 'pro saluatione non pro pena ordinata'.<sup>1</sup> Winchester had its King's prison in the High Steet, and I understand the meaning of the explanatory clause 'le balche regis ubi latrones ponebantur in prisone'<sup>2</sup> to be that felons were kept there till they had paid their debt—that is, the forfeiture of their life by execution. A prosecutor who is convicted of the fraudulent use of a tally is committed to prison 'for false tally', but it is more natural that this should be to await his trial for the forgery at the gaol-delivery than as final punishment. The term 'gaol-delivery' itself implies that prison is not a final punishment.

We have no mention in the Court rolls, little in the compotus rolls, of pillory, stocks, or other practical form of punishment. Winchester of course had its stocks, and we cannot think of a mediaeval town as complete without them. The author of *Piers the Plowman*<sup>3</sup> speaks of them as familiar to every one:

Meires and maceres<sup>4</sup> that menes ben bitwene  
the kyng and the comune to kepe the lawes,  
to punyschen on pillories and pynyng stoles,<sup>5</sup>  
brewesteres and bakesteres, bocheres and cokes,  
for thise aren men on this molde<sup>6</sup> that moste harme worcheth  
to the pore peple that parcel-mele buggen.<sup>7</sup>

But I can find but one mention of stocks as erected or repaired in the City accounts, none as awarded as penalty in the Court rolls. London Aldermen could award such penalties as the pillory and drawing on hurdles through the streets, but as the offences mentioned in the *Plowman* are those which we know to have been punished in Winchester by fine, we may be allowed to believe that the judicial forms of the City were too well developed and its civilization too advanced to require their frequent use.

It is a question whether any officer had the power of summary punishment without getting a conviction in Court.

<sup>1</sup> Salter, *Mun. Civ. Oxon.*, p. 144.

<sup>2</sup> Domesday Addit., 532b.

<sup>3</sup> B. iii. 76.

<sup>4</sup> Office-bearers.

<sup>5</sup> Seats of punishment.

<sup>6</sup> In this world.

<sup>7</sup> Buy by retail.



If bakers sell bread under weight there was a fixed penalty in money, according to the Usages (§ 37), when the default was small; if it exceeded a certain limit the baker had to 'porter le juwise de la vile'.<sup>1</sup> If these words mean merely that he had to appear in Court it might imply that minor defaults were dealt with summarily by the bailiffs without coming into Court, but the exact meaning of the words is not certain. Even more trivial offences whether in market or town, a woman bread-seller with her basket in the wrong place, or a householder raising hue and cry without cause, are dealt with in Court and are punished with fine. The inspectors of the weavers had power to take security for breach of trade regulations from offenders, but they were bound to make presentment to the Bailiffs at the next Court, and this was probably the usual procedure for market offences.<sup>2</sup> I think we must conclude that City officers had no power of punishment beyond that of taking distraint for the appearance of the offender in Court. It is to be remembered, too, that the meetings of the Court were at very short intervals: in the reign of Edward I it met regularly on Monday, Wednesday, and Friday; the Monday meeting was often dropped in later times, but the Court always met on Friday, and nearly always on Wednesday, and there could be no delay in dealing with petty offences.

A statute passed in the middle of the fourteenth century must have made a great change in the work of the City Court; it may account for the disappearance of a class of business from the rolls. In the eighteenth year of Edward III (1344) the Commons petitioned the King<sup>3</sup> to provide for the better administration of justice by appointing two of the 'mieultz vavetz', the men in better position, in the county, and other,

<sup>1</sup> In the Court rolls of Colchester the corresponding expression 'sustinere judicium' is used for a penalty to which fine is a more lenient alternative and which may be the pillory. It is possible that at Winchester also the words may be a euphemism for the pillory which may have been in use at the date of the 'Usages'. In *Piers the Plowman* (C. xxi. 427) 'juwise' is used of serious punishment:

'Ther a theof tholy [suffer] sholde deth other [or] Iuwise.'

<sup>2</sup> See Usages, § 22.

<sup>3</sup> Statutes at Large, i. 229.

two or more, 'sages' to be justices to 'oier (hear) e terminer trespas e felonies'. It was enacted accordingly that such persons should be appointed guardians of the peace, and when need shall be, they or others wise and learned in the law shall be assigned by the King's commission to hear and determine felonies and trespasses done against the peace in the same counties.

The Winchester account rolls make it clear that sessions of the Peace under justices of the two classes described in the statute—the county gentleman and the trained lawyer—were held in the City by the middle of the fourteenth century. In 1360 we find Henry Kersey being in the City as justice with three others, on three separate occasions in the year. Henry Motelaw is King's justice for assise in the same year; Kersey, therefore, cannot have been in Winchester as justice of assise; he and his colleagues can only have been here for the Sessions of the Peace held at first three times a year. In 1367 Walter Haywode and Michael Skyllynge are here with the Sheriff, all three receiving complimentary presents; Haywode had himself been Sheriff in 1357, and he and Skyllynge must have represented the 'mieultz vavetz' of the county who sat with a legal member as justices in the Sessions. In 1377 Haywode and Skyllynge and Walter Clopton, with other gentlemen of the county, are met by the Mayor, with the usual expenditure for wine, outside Durngate. Clopton is described in the same roll as King's Justice; he was at this time one of the King's serjeants-at-law and only became a justice later, being Chief Justice of the King's Bench in 1388, an office which he resigned in 1400 to become a Franciscan friar. He is not in Winchester, therefore, as justice of Assise. He must have been the professional member of the Commission, the Londoner 'apris de la lay', added, in conformity with the statute, to give a legal stiffening to the common sense of the country gentleman. The entries clearly refer to a sessions of the peace of the County held in Winchester, not a City sessions. The names of the justices serving on it are those of county gentlemen, not citizens; they are received and entertained as



visitors, not as residents; and the frequent mention of the Sheriff in connexion with the presence of these justices in the City implies that the Court he is present at is a County, not a City, Court.

Further, the expressions used in the Charter of 30 Elizabeth, which grants to the City a Quarter Sessions of its own, imply that that Court was a new institution. This Charter sanctions the old City Court of Mayor and Bailiffs already existing as a Court of record held by the 'Mayor and Commonalty' every Wednesday and Friday 'for all manner of pleas plaints and actions covenants contracts &c.' It then creates a new Court 'for the preserving the peace within the City', at which the Mayor, Recorder, and Aldermen are empowered as Justices of the Peace, holding it as representatives of the Crown, to deal with the more serious matters from 'murders and felonies' to 'regrating and trespasses'. A clause follows providing that the Justices for the Peace for the County of Southampton shall not hereafter in any wise intermeddle with the said City, nor have any jurisdiction concerning any causes appertaining to the said City. The word 'hereafter' implies a new departure, which is at the least that the City is now independent of the Court of Sessions for the County and has henceforth a Court of Sessions to itself. I think we must conclude, therefore, that it was not a City Court of Sessions but a County Court that was held in Winchester under the Statute of 1344 during the fourteenth and fifteenth centuries. The effect of this statute evidently had been to withdraw business from the ordinary City Court of Mayor and Bailiffs to the County Court; the citizens resisted this, and in 5 Richard II they procured a letter from the King addressed to the Justices of the Peace for the County reminding them of the liberty secured to the City by Charter for its own Court and requiring them to respect it.<sup>1</sup> The interference of Queen Isabella already mentioned looks as if the Queen were usurping the functions of the Court of Mayor and Bailiffs, by setting up an unauthorized Court

<sup>1</sup> Black Book, fol. 1.

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of Sessions of her own, rather than ousting an existing Court of Sessions of the City.

By the custom of the City<sup>1</sup> a defendant was entitled to three 'reasonable summons', and this privilege and subsequent extensions of it make the rolls of the early fifteenth century a dreary wilderness. If the defendant did not appear on the third summons he was liable to attachment. Attachment did not mean personal arrest; that was avoided by finding security, and even in the absence of security there was a reluctance to subject the burgess to arrest of the body; he is distrained by seizure of some of his personal property, his horse commonly, or some article of his furniture. Only in the absence of both security and personal property is there actual arrest, and the defendant is attached 'per corpus suum', or, as the rolls sometimes put it with grim brevity, 'His security is prison' (*plegius prisona*). Further, essoin, or reasonable ground for non-appearance, was freely allowed by the Court. The result is that delays were endless, and the repetition of summons and distraint and 'better distraint' is inconceivable. I have counted eighteen separate meetings of the Court at which one Thomas Stapilton, a weaver, is summoned for debt, distrained, distrained again, distrained 'as already many times' (so adds the wearied clerk), and the year's roll ends without our knowing whether the creditor ever succeeded in getting his elusive debtor into Court. In the fourteenth century things were not so bad, but even then a large part of the roll is taken up with these tedious repetitions. In 24 Edward III the Abbot of Hyde is a bad offender. He appears in four separate suits for debt during the year, in three of them as defendant. Nicholas Byne sues him for debt, and the Abbot, described, as clergy are who have business dealings, as a 'merchant', after repeated summons is distrained, the distress being the seizure of a horse. Orders of the Court for further distraint produce no result, and finally in the ninth Court the horse is valued, Byne takes the price, half a mark, in satisfaction of his claim, and withdraws his prosecution.

<sup>1</sup> Usages, § 63. i.



A feature of the later rolls is the number of habitual litigants, the same names occurring over and over again both in prosecution and in defence, and the leniency of the fines for neglect of an order of the Court was clearly a temptation to delay. After all the repetition many cases are ended by a 'non prosecutur', many are withdrawn to be settled out of Court, a fine of threepence being paid for the 'licencia concordandi'. From the point of view of the City the waste of time was not in the result a loss. Every non-appearance, every essoin, even a leave for agreement out of Court, meant a fine, usually threepence, which was received by the Bailiffs as part of the profits of the Court. A mediaeval court was a profit-making as well as a judicial institution; the 'general eyre', the original form of the court of the itinerant justices, existed mainly for the enforcement of the King's rights and dues, and was an important source of revenue.

Where a case is carried through, either the litigants ask for the decision of the Court, and that is given without a jury (the phrase is 'petit iudicium'), or else there are two alternatives open to the defendant; he may demand a jury, or he can clear himself by oath of compurgators. The formula for the former, 'placitavit ad patriam', implies an appeal to the knowledge of the locality.<sup>1</sup> The original function of a jury was not merely to take evidence, but to supply it, and the Jurors are men who are presumed to have knowledge of their neighbours' affairs. They present the finding of their 'inquest' or inquiry, and the judgement is the act of the Court, the Mayor and Bailiffs. The same principle underlies in practice the appeal to the oath of compurgators;<sup>2</sup> the defendant is confident that he can find a given number of his neighbours who can vouch on oath from their own knowledge that he is not guilty of the offence, or is not liable for the debt alleged against him. In this case he

<sup>1</sup> See below, p. 147.

<sup>2</sup> Prof. Hearnshaw (*Leet Jurisdiction*, p. 333) points out that the system probably originated in the blood-feud, which implied the duty of a man's kindred to help him and see him righted, but the obligation to use the oath in the service of a friend was tempered by the fear of divine vengeance on untruth.

is said to 'wager his law' (*vadiare legem suam*), and there follows a note in the roll, 'lex tertia manu', 'lex sexta manu', as the case may be, meaning that he can produce two or five friends who, as well as himself, will lift up their right hand in Court and swear to his innocence. The number of compurgators varied; it is never more than nine, rarely less than two; I have only found one case in which only one was required, and once for a trifling debt of sixpence the defendant is said simply to have 'made his law' as though his own word sufficed. It is not clear whether the number required varied with the magnitude of the claim or the status of the persons. The general principle of English law was that the value of an oath varied with the social status of the oath-taker. This may well have been the case in the Winchester Court, but the particulars of the amount of the debt or the position of the defendant are given too rarely for us to determine. There are cases where a cleric makes his law 'with the third hand', a merchant with the fourth, a baker with the ninth; but the amount of the debt is not stated. Again, a debtor for twenty-three pence has to find one compurgator; another, for nine shillings and two pence, three; a third, for five pounds, eight, but here too the status is not given. Probably both status and amount were considered; the higher the rank of a friend the greater the debt his oath was good for.<sup>1</sup> Nor do the Winchester records show whether the choice of the defendant's oath-helpers rested with him or with the Court. At Leicester it had rested with him, but in the thirteenth century the rule was altered and they were chosen by the Court.

Finally, we must consider the Court of Mayor and Bailiffs when it sat as the Court of Pie Powder. 'Pede-pulverizatus' (dusty-foot), *pie-poudré* in Anglo-French, is the name for the travelling merchant, and the Mayor and Bailiffs sat for his convenience, or that of a citizen who had claims upon him, as a

<sup>1</sup> Hearnshaw, *op. cit.*, p. 333. By early English law the number of compurgators required varied with their rank; there was a regular scale: a ceorl could be responsible for five shillings of fine, a thegn was equal to twelve ceorls; therefore for a debt of sixty shillings either twelve ceorls were needed or one thegn.



Court that took its name from his nickname. The City Court of Pie Powder must be distinguished from the temporary Court of Pie Powder held on St. Giles's Hill, at the Pavilion, at Fair-time under the authority of the Bishop. That was a temporary Court held only during the Fair; the City Court of Pie Powder was a regular one, meeting throughout the rest of the year. It is distinguished, too, from the City Court not only by its use of Merchant law, but by its frequent meetings and the comparative rapidity of its procedure. It was adapted for speedy justice. 'Le Mair lour fra hastive droiture saunz nulle delay solonc la ley marchaunt' was the rule in London,<sup>1</sup> based on the Statute of 31 Edward I, 'quod omnes ballivi et ministri feriarum civitatum etc. mercatoribus coram eis comparentibus iusticiam facient de die in diem sine dilatione secundum legem mercatoriam'. The Winchester Court also met at frequent and irregular intervals, apparently whenever needed. The average number of meetings is more than once a week; in one year it is as great as twice a week. In 3 Henry VI (1424) six out of the eighty-two meetings of the Court were held on Sundays, and everything is done for the convenience of, or the control over, the non-resident litigant. The adjournments, so spun out in the City Court, are limited in number and for brief intervals, as brief as from the first meeting of the day at eight in the morning to a second at ten, from ten to a third at two, and again to four o'clock; the defendant may have had his 'sixth Court' within forty-eight hours, and if he does not then appear, his distress, if the plaintiff has succeeded in finding distress, can be valued and sold, and the dispute then and there settled without dragging on for a quarter of a year as in the City Court. One of the parties being always a non-burgess, attachment follows at once on summons, though it is avoided if the defendant can find security (*plegius*); otherwise he is distrained. The distress levied is commonly the merchant's horse, sometimes cooking or household utensils, a silver-mounted knife, a piece of cloth—anything that hand could be laid on. Failing this, if he is not a 'fugitivus' or

<sup>1</sup> *Mun. Gildhalle Lond.*, i. 390.

absconder, he may be in the custody of the Bailiffs or in the King's prison. The prosecutor, too, has to find security that he will not drop the case, but this is more formal, and there is a class of professional security, designated in the rolls by the initials J.O., T.S., R.E., as it may be, representing one of the practising attorneys of the Court. Either party could appear by attorney, not necessarily a lawyer, but, as the word implies, any one to whom he had entrusted his interest. In a short time, however, the attorneys become a professional class, and John Ocle, Thomas Stokes, and Richard Erel engross a large part of the business of prosecution in their generation.

As we have often said, a citizen of Winchester could only be prosecuted in the Winchester Court, and though Winchester men are frequently plaintiffs in the Court of Pie Powder, I have found very few cases where they are defendants, and in these there is some presumption that they are only domiciled in the City, not burgesses. But it is not necessary for even one of the parties to be a burgess of Winchester; a merchant of New Sarum prosecutes a burgess of Southampton, a citizen of London a defendant from Andover or Bristol, the dispute arising presumably over business transacted in Winchester. Nor are litigants solely of the status of travelling merchants. The Bishop of Winchester, the Abbot of Hyde, the Prior of St. Swithin's are plaintiffs, the latter more than once; in one year seven clerics are plaintiffs, three are defendants, and 'gentilman', 'armiger', 'leche', 'surgeon', 'yeoman' occur among the descriptions of suitors.

Unfortunately, the place of origin and the status are given in only a minority of cases, but there is enough to show that the use of the Court of Pie Powder was not confined to merchants visiting Winchester, and to suggest that it served a much wider need. The Warden and Fellows of Winchester College claim a corn rent from a 'husbondman' of Knight's Enham, near Andover; why did they not prosecute him in the County or Hundred Court? Was it merely that the defendant happened to be found in Winchester? John Sandes, 'clericus', claims for debt, possibly tithe, from Thomas Kayt, 'husbond-



man' of Soberton; John Somerey, Chaplain of Depedene in the New Forest and also Vicar of Overton, is summoned by the Rector of Depedene for debt; the fee-farm Bailiffs of Andover have a suit against R. Couk, 'husbondman', of Chelwarton (Cholderton, near Andover), and R. Barbot, 'armiger', of the County of Southampton, against J. Carter, 'clericus'. Why should these cases come into the Winchester Court of Pie Powder? Again, Sir S. Popham, late Sheriff of Southampton, prosecutes W. atte Noke for a debt of £7 16s. 11d.; and J. Serle, subvisor of the County, is plaintiff against T. Lane, also for debt. Atte Noke's case had been before auditors and is for the residue of an account; it was probably due to the Sheriff in his capacity as such, and was not a private debt.

In all these we have a class of business that should naturally have been heard in the County, and yet it comes into the Winchester Merchants' Court. What is the reason? It is at least possible that the convenience of the Court with its frequent meetings and its shorter adjournments made it a popular court, and litigants brought their business there, by agreement, rather than to their own courts. It is certainly remarkable if trade and other disputes involving non-burgesses should have been so constant in Winchester as to require a court meeting nearly twice a week. It is possible that the desire to avail themselves of the law merchant which was administered in the Court of Pie Powder may have been an attraction to litigants. But when we consider the difficulty and delay in getting a decision in the ordinary court which the instances we have already given illustrate, there is ample explanation of the popularity of the Court in its business-like promptness, and with the delay of the Courts of the Hundred the Winchester Court of Pie Powder may well have been the readiest means of obtaining justice to a resident in the neighbouring part of the County. Something similar occurred at Oxford. The procedure of the Chancellor's Court of the University was simpler and quicker than that of the City Court of Hustings; laymen who were not members of the University were able by certain

legal fictions to bring their cases into the University Court, and the practice became so common that the Crown interfered to restrict it.<sup>1</sup>

But there was a further fact that encouraged the use of the Winchester Courts by merchants. The statute of Acton Burnell (1283) facilitated the recovery of debts by merchants. It gave power for the recognition of contracts of loan to be made locally in the more important boroughs and the merchant was saved the trouble and expense of going to the Central Courts.<sup>2</sup> The contracts were validated by the use of a royal seal, and recognition was made before the Mayor of the town and a clerk nominated by the Crown. The seal was in two parts; the obverse, the greater part, was entrusted to the Mayor, and the smaller, the reverse, to the clerk appointed for the purpose. In London, York, and Bristol the Mayor had the custody of both halves. There is no reference in the Usages to a point of legal procedure of such great practical importance, the probable date of the Usages being at least eight years before that of the statute. But the half of the seal which was in the keeping of the Mayor is still preserved in the City, and an illustration of it is given as the frontispiece of this book. The inscription shows that the Crown undertook the protection of the merchant, it is the King's seal for use in Winchester, not the City's seal, and the appointment of Mayor and clerk for its custody was made by royal letter patent. It is easy to understand how the possession of such a power would add to the popularity of the local Court, and that merchants would avail themselves of the simplified procedure. The statute required the 'writ obligatory' to be authenticated by the debtor's seal and the King's seal, and the document to be enrolled.

<sup>1</sup> Salter, *Munim. Civit. Oxon.*, p. xxv.

<sup>2</sup> These recognizances are 'Statute Merchant Bonds'.



## XI

### THE TOWNSMAN

WE should wish to extract from the records of a city like Winchester not only the history of particular institutions like the Mayoralty or the City Court, but also some general view of the life of an ordinary townsman. We want to know something of his personal freedom, the cost of his living, the conditions of his labour; does the information we get from the records enable us to give any answer to such questions?

Personal freedom, we may say, was limited very little by national obligations or the claims of a central authority, but very closely by local claims and duties, and the conditions under which life in a mediaeval town was necessarily passed. Taxation was not a heavy burden, that of military service possibly was escaped entirely. Liability to such service was made definite by the assize of arms (1181). Citizens had to be trained to arms and were liable for service between the ages of fifteen and sixty, and cities had to furnish their quota of archers, &c. But this was modified by the custom which had been recognized or granted in Charters. Oxford had to furnish twenty soldiers, but might pay £20 that all might go free; so with Cambridge. With the exception of Skinner's 'insurrection',<sup>2</sup> which need not have been the work of Winchester men, and the instance given on the next page, the Winchester records make no reference to military service or payment in lieu of it. The burgesses in the reign of Edward III lived their quiet life undisturbed by the great events going on beyond the Channel. Echoes there are in the records of the great Hundred Years' War; a King's herald announcing the return of the King to England in 1360 after signing the Treaty of Bretigny receives a gratuity, and a touch of feeling is thrown into the bald entry in the account by the words added 'thanks be to God'. The taking of

<sup>1</sup> Ballard, *B. C.*, p. xlvihi.

<sup>2</sup> p. 38.

Rouen in 1419 after its six months' defence by Alan Blanchard is celebrated by a procession through the streets; Frenchmen are taken through the town by the Sheriff on their way to London in the last year of Henry V, possibly prisoners taken in the last sputter of war that broke out anew in the year of his death; but the citizens took no part, either personal or vicarious, in the dangers of the war. The only exception that I can find is that in 1359 the City was called upon to make provision for the payment and equipment of four archers, and as usual had a special levy for the cost, paying over to the Sheriff of the county £8 for the support of the men, and two marks for their horses and saddles. In the next year a commission of array under Sir John de Winton was in the City twice to superintend an array, but there is nothing to show that men were taken from Winchester; de Winton may only have made the City the centre for his business in the County. A great war was the affair of the King, his tenants-in-chief and their followers and the professional fighting men the King hired, and the citizens of Winchester were no lord's retainers; the Hundred Years' War made no call for personal sacrifice from them.

It was different with the claims on the townsman's service, or the restrictions on his liberty, imposed by his municipality. True, the judicial functions which were the duty of every burgess 'rendering suit', that is, making attendance in the burgh-mote, were now exercised only by the Mayor and Bailiffs who constituted the City Court, but he had to serve on the juries of that court, and even on the jury of the Shire Court when a burgess was a party to a suit there. In the system of frank-pledge the ward had taken the place of the tithing as the local unit, the Alderman the place of the Chief-pledge of the tithing, and he had under him a Bedel paid a small retaining fee, a farthing a day, who was the policeman of the ward and did the more disagreeable part of the work. But their work is not that of professionals giving their whole time to their duty; they are still amateurs who have to earn their living in a trade of their own. In seven lists of Alder-



men, for years between 1380 and 1396, the trade designations of four only are given; two are tailors, one a dairyman, one a fuller; and six Bedels for the whole city would not be a large allowance even of professional policemen. Consequently the police work fell largely on the ordinary townsman; he had to join in hue and cry when a malefactor had to be arrested, and he was responsible for knowing what was going on and for taking steps to get illegality stopped. In 27 Edward I, we find a batch of sixteen men fined for concealing the fact that Adam Sugge wounded John Giffard; it was their duty to see that the Alderman knew of it.

Similarly, the townsman had to take his share in the watch. The nightly watch was provided for by a certain number of householders being told off for the duty in each Aldermanry. They were given the 'great horn' for use while on duty; it was a disagreeable work, sometimes evaded, and we have instances of men being fined for refusing the '*cornu magnum ad vigilandum*'. The selection was in the hands of the Aldermen and the citizens resented the inequality and arbitrariness of their choice. In 1 Henry VI the system was reorganized so that six consecutive houses were taken for one night, the next six for the following night, until, street by street, the whole City had borne the burden equally.

But police duty was only one of the claims which the community made on the personal service of the individual. A second arose from the fact that what are now municipal services were then thrown upon the citizen, and the personal service, which is now commuted in a money rate, was a very real burden to him. The householder had to see that the street was lighted before his door and paved to the middle of the roadway, to clear the filth away every Saturday, and to arrange for the disposal of his own house-refuse. Householders are constantly prosecuted for leaving filth in the roadway, and in general the system was to throw on the individual what is now undertaken by the community at his expense. It was the same with offices that had to be filled; the large number of duties, from inspectorships of poultry

and meat, the Aldermanry of Street wards, the auditing of accounts, up to the Mayoralty itself, which had to be shared among a comparatively small number of individuals (for most of the offices could only have been held by members of the Merchant Gild), meant that some burden or other recurred at short intervals on qualified citizens. But they had sworn to bear the burden when they took up their freedom, and there was no feeling that office of importance was a hardship or that selection to a duty meant an unfair call on private time.<sup>1</sup>

All these duties after all, however onerous, were no great restraint on personal liberty, but there was one idea of the Middle Ages that interfered somewhat deeply with a form of personal freedom that we value highly—the right to privacy. Now an individual may seclude himself from the knowledge and observation of his neighbours—he may live isolated in a crowd; in the Middle Ages it was not so; isolation was impossible; the community was smaller in size, but, more than that, it was the business and duty of one man to know the affairs of another. We have had occasion to mention many features of city life which illustrate this difference—the system of frank-pledge, the original meaning of the jury,<sup>2</sup> the assessment for the King's tenth,<sup>3</sup> the supervision of purchase and the control of workshops, and the whole system by which publicity was the security for the observance of trade regulations, were all natural in an age when a man expected to live under the inspection of his neighbours. The publicity of which we are apt to complain at the present day is a publicity of a different kind. It is a wider but a shallower publicity; it spreads to the whole world facts that have become known from the law court, the probate of wills, the auction sale, the cricket field; it is not based on the intimate knowledge of another's affairs, unless he is willing or circumstances compel him to communicate them, or the penetration into his life which was the basis on which social justice depended in the

<sup>1</sup> For the one exception, the office of Bailiff, see above, p. 45.

<sup>2</sup> p. 138.

<sup>3</sup> p. 108.



Middle Ages. What is known of a man's life may be known to more at the present time, but less is known.

It is more difficult to compare the effect of the restriction of liberty in trade matters of modern and mediaeval times, for the conditions of the former have changed and are changing so rapidly. The mercantile and manufacturing system was dominated by the Merchant Gild, and the Merchant Gild was an association of employers with a strict and exact code of regulations. The effect of the Gild system was to limit competition and to produce an equality among master-manufacturers. Common regulations for hours of work and the prohibition of night-work,<sup>1</sup> the restriction on the competition for labour,<sup>2</sup> inspection with a view to enforce the 'ancient usages' of a trade and examine its products—all gave a manufacturer security against being undersold by his rivals. A master-weaver of Winchester knew that what was being done in his shop was being done precisely the same in the shops of all the other weavers of the town. The system may not have encouraged enterprise or the introduction of improvements, and it was undoubtedly one of the causes of the commercial decline of the City in the fifteenth century, but it tended to the quiet life. There was no hustling, no cutting of prices; a 'corner' was impossible in a society which of all things dreaded monopoly and treated regrating and engrossing, the buying up of all available supply of a commodity, as the fundamental sin of commercial life. What was true of manufacturing was true also of retail trade; there was no need to watch the rise and fall of prices when local authority was fixing the price of staple articles of consumption, and the periodic visits of an external authority<sup>3</sup> were meant to protect the consumer from overcharge in the market.

As he was protected against competition within the City, so his Guild protected the manufacturer against external competition. No weaver not of the franchise might set up a shop in Winchester without special payment for the privilege,<sup>4</sup>

<sup>1</sup> Usages, §§ 20, 21.

<sup>2</sup> See below, p. 158.

<sup>3</sup> *Ib.* § 19.

<sup>4</sup> Usages, §§ 14, 41.

nor might a Winchester master escape the local restrictions by having his work done outside the City walls.<sup>1</sup> All import and octroi dues were differentiated in favour of the franchised—that is, members of the Merchant Gild—though this protection was limited by the obligation to give reciprocal advantage to those whose home charters gave them the same liberty as the Charters of Winchester.<sup>2</sup> What is obscure is the extent to which competition might be increased by the power of a journeyman to set up in business on his own account. We know nothing from our records about the conditions of admission to a Craft Gild. A weaver on the completion of his apprenticeship belonged to the Mistery of Weavers. But whether the ranks of the employing class, the master weavers, were recruited from their own journeymen who had saved money or from journeymen from another place settling in Winchester, as well as from their own sons and relatives, it is difficult to say. But there are two restrictions to free movement within a trade<sup>3</sup>: first, that the number of local journeymen was limited by the necessity of apprenticeship, and apprentices had to pay the considerable fee of ten shillings<sup>4</sup>; and, secondly, that a manufacturer could not buy his raw material or sell his finished product without being a member of the Merchant Gild, and membership of the Gild was restricted to the owners of property in chattels of a considerable amount. A tanner<sup>5</sup> who had bought a hide in the Soke has his hide confiscated because he had no right to buy the raw material of his trade unless he were in the Merchant Gild. The man is clearly a working tanner, and the Gild privilege has the effect of preventing him following his trade as an independent manufacturer. I have found no case of a prosecution of a working weaver for buying raw wool, but he could not get rid of his products without paying for his position as a shopkeeper,<sup>6</sup> and the same restriction would apply to other industries. Everything tends to show that the ladder in industrial life was

<sup>1</sup> Usages, § 10.

<sup>2</sup> Above, p. 97.

<sup>3</sup> See above, p. 79.

<sup>4</sup> Usages, § 19.

<sup>5</sup> Court Roll of 27 Edward I.

<sup>6</sup> Usages, § 41.



not an easy one, and that it was not a common thing to rise from the rank of workman to that of employer. The Gild was recruited from the misteries and after inquiry as to what suitable candidates were available,<sup>1</sup> but the numbers of admissions do not suggest that it accepted journeymen other than sons or relatives of masters to any appreciable extent.<sup>2</sup>

What, then, was the position of the workman as such? If he had little power of rising from his own class, neither had he much power of movement within it. The rules of the Gilds discouraged the free exchange of labour;<sup>3</sup> workmen could not leave their employers in the weaving trade and accept an engagement with another till the regular hiring day. A weaver's wages were fixed—eighteen pence a week in the winter, two shillings in the longer days of summer; these were the wages of the end of the thirteenth century, and there had not been much advance a century later, in spite of the diminution in the supply of labour and the social disturbance of the early years of the reign of Richard II. Fourpence a day is the regular rate, then, for unskilled labour, fivepence for skilled; a carpenter or a mason receives the latter, their 'mate' the former, a rate which persisted practically without change into Tudor times. The inequality between skilled and unskilled labour was less than in most trades at the present time, though the ratio approximates to that which now obtains in the bricklayer's trade. If the prospect of advance for a workman was limited, on the other hand he was protected, like his employer, from competition; the unskilled labour of the town was not recruited from the country, nor was there an accumulation of unskilled labour, a pool into which an employer could dip when he wanted, and leave in its stagnation when he did not.

There must, it is true, have been a regular movement of population from country to town up to the early part of the fourteenth century. The surnames of this period are to a large extent formed from local names, and of the local names so used a large proportion are the names of places in

<sup>1</sup> Usages, § 46.

<sup>2</sup> Above, p. 74.

<sup>3</sup> Usages, § 19.

Hampshire and near Winchester. Nearly every neighbouring village has some one in the City hailing from it, and known by a surname derived from his place of origin. Adam of Hurseleye, John of Chyretone, Richard of Twyforde, Thomas of Worthe, Robert of Sparsholt, are types of names that appear constantly in the rolls; they are not the names of territorial magnates, but of the trading and lower classes of the City, and at a time when the surname was felt to have a meaning they must denote a recent connexion with the place they designate. Until well on in the reign of Edward III personal names were still in a fluid state and still had a meaning; John le Portour is called also John Berman: it is only in the middle of the fourteenth century that he becomes John Porter, or that Adam de Hurseleye becomes Adam Hurseleye. It is noteworthy that of 770 names appearing on the Court roll of 27 Edward I, 230, or thirty per cent., are local names divided almost equally between names of places in the country at large and names of Hampshire villages and towns. But we are hardly justified in thinking of this movement as a free migration of labour from country and town; such a migration would be difficult with the manorial restrictions of the Middle Ages, in any case it did not last apparently beyond the beginning of the century.

There is no hint in our records of unemployment either in protest or appeal from the working class, or in the grant of relief, except the slight remissions of rates to 'pauperes'. The number of householders excused the murage rate on the score of poverty is never large; in 19 Richard II they are three, and in 22 Richard II seven; on the 'tenth', a heavier burden, the remissions in 19 Richard II for absconding tenants and poor amount to 10s. 7d., almost exactly one per cent.; in 2 Richard II it is 10s. on two 'tenths', or only one-half per cent. Nor is there in the City any echo of the discontent which produced the Peasant's Revolt, or of Ball's preaching.

The hours of labour were, of course, long; we do not know when a weaver's work ended in the day, but the fact that his wages were one-third higher from Lady Day to All Saints' than



for the winter half of the year implies that he worked for a large part of the year as long as daylight allowed. The prohibition of night-work, though it resulted to his benefit in winter, was intended for other reasons than for his relief.<sup>1</sup> The old rhyme,

Rise at five and dine at nine,  
Sup at five, to bed at nine,

expressed the distribution of his day. Breakfast there was none, but dinner came at nine, and a break was made at or after noon by the 'nounschenche' or noon-drink, the original form of 'nunscheon', to which we may owe our word 'luncheon'. It often occurs in the account rolls as given to masons and their labourers, but, unlike the luncheon of modern times, it came after dinner and not before it; there is fairly frequent mention, too, of a bonus given to workmen 'pro diligencia sua'. The labour employed by the City is mainly for repairs of walls and gates. All this is done by direct labour, there is no contractor, the City purchases its own materials and the City pays for its own labour, employing a 'supervisor', who receives less than an unskilled labourer, threepence a day only. I have found no case of work by contract until the building of the Sterre Inn, for which a final instalment of £7 14s. 0d. is paid to John Wade in the last year of Henry V, and in that reign the City has workmen whom it not only keeps in regular employment but whom it finds in livery.

The wages of a skilled workman are generally expressed in a weekly rate, and it would be of importance to know whether Saints' days were working days, but our rolls offer no evidence on the point. The courts certainly sat on Saints' days, but so they did occasionally on Sundays; but for other employment we have only external evidence to go by. Saints' days undoubtedly figured largely in the life of a citizen; his calendar was much more fixed from them than from the days of the month, and every one was familiar with the dates on which they fell. A date is always expressed by its position in the regnal year of the King in relation to a Saint's day;

<sup>1</sup> See above, p. 80.

a payment made on 23 June, 1360, would be described as made on the eve of the Nativity of St. John the Baptist in the thirty-fourth year of King Edward the Third after the Conquest. Froude<sup>1</sup> estimates the loss of time in labour from holiday or Saint's day as one day in a fortnight at the time of the Reformation. The English holiday may not have been as frequent as in continental countries, where as late as the days of Maria Theresa we find her minister, Kaunitz, complaining of the inordinate number of holidays, that gave an unfair advantage to the Protestant trader. But at the time of the Peasants' Rising in the 'Pupilla Oculi' of de Burgo we find directions given to priests to use the confessional for gaining information of peasants working on their land on a holiday,<sup>2</sup> and an allusion in *Piers the Plowman* suggests that it was only for the poorest of the poor that such labour was winked at. 'The lawe 3eveth leue', it is there said, 'such lowe folke to be excused', and it was only the very poorest who were safe from being branded as

'Contumax, thauh he worche  
haly day other (or) holy eue hus mete to deserue.'<sup>3</sup>

Where the line was drawn that made such neglect excusable by poverty it is hard to say; I regret that our records throw no light.

Church festivals were not intended for amusement, but in effect they did provide enjoyment of a mild kind. Processions and parades, not unattended by the City minstrels, were a common feature of them, indeed processions of all kinds were a constant joy to all classes. The great visitor who brought with him his minstrels<sup>4</sup> can hardly have kept their music only for the feasts at which he was entertained, and in one year of Henry VI there were twenty-five of them altogether at one time in the City. Occasions like the annual 'reduxio troni' were an entertainment which any one might share. Nor were more attractive amusements forgotten; bear leaders were paid out of the City funds; bulls were baited, and it

<sup>1</sup> *Hist. of England*, i. 28.

<sup>3</sup> C. xiv. 85-6.

<sup>2</sup> Coulton, *Social Life*, p. 341.

<sup>4</sup> p. 117.



was a City regulation that the flesh of a bull should not be sold unless he had been baited. Prosecutions for the neglect are almost vindictive in their frequency at one time, and the City rulers may have been influenced not only by their sense of their duty as a health authority, but by resentment at a wicked waste of opportunity for sport.

If we could estimate the purchasing power of money in the fourteenth century we should get some idea of the financial position of the labourer in mediaeval as compared with modern times. It is generally held that the ratio of the value of money in the reign of Richard II to what may be taken as its value in the year 1900 is something between twelve to one and fifteen to one. When Wyclif used the 'penny' as the price of a day's labour in his translation of the Gospels he was using it to represent the Latin 'denarius', a silver coin of which the nearest representative in his own day was the silver penny, which was the unit of the currency of the time. He did not mean to give it as the actual rate of daily wages. As we have seen, an unskilled labourer earned four times as much—four or five shillings, that is, in modern money. But this is insufficient for comparison unless we know also the purchasing power of the money. The following figures I take from Thorold Rogers's *History of Agriculture and Prices*. He gives the average price of wheat as 6s. 1 $\frac{5}{8}$ d. the quarter for the second half of the fourteenth century (i. 267). This is more than one-eighth the price of wheat before the war, and, allowing for the difference in value of money, would make wheat fully fifty per cent dearer than now. There is some uncertainty, too, as to the weight of the quarter; he gives it as 504 lb., but in the instance quoted above<sup>1</sup> from the *Munimenta Gildhalle Londiniensis* it is only 360 lb., which would make the difference still greater. On the other hand, wheaten bread was not the only farinaceous food of the working-class; rye and oats and beans were largely used. It was one of the complaints of John Ball that the rich have 'fair bread, and we oatcake and straw', and oats, as we know from St. John's Hospital roll of

<sup>1</sup> p. 83.

21-22 Richard II, were in that year two shillings a quarter, which would make the price not higher than the price at the opening of the present century.

If bread was dear, meat, particularly mutton, was cheap. The average price of an ox was twenty-two shillings, of a sheep one and eightpence, and the retail price of meat all round may be taken as a farthing a pound<sup>1</sup> or even less. Butter was about one-eighteenth of the price in 1900, cheese about one-fifteenth, eggs one-twenty-fourth. Beer was the universal drink of the time, and was a staple food and not a luxury; its price and its quality were regulated by assize as carefully as those of bread, and from the number of prosecutions it is evident that the control was strict; the price, conforming as it did to the price of barley, varied from year to year. Fish was comparatively dear, and it is a superstition to believe that salmon was ever anything but a costly food.

House-rent, to judge from an account roll of the first half of the fifteenth century (25 Henry VI), was very low. By that time a considerable amount of property had come into the hands of the City. Of over forty houses there mentioned, eleven are 'cotagia' with rents never exceeding 5s. a year, eight of them only three shillings; of the other tenements one is as low as 3s. 4d. a year; another, occupied by a carter, 6s.; seven are under 10s. yearly rent; eleven from 10s. to 20s.; eleven from 20s. to 40s.; and two above that. This would mean that a working man might not be paying more than 3 to 5 per cent. of his wages in house-rent; an unskilled labourer in Winchester, who, before the war, was paying 25 per cent., might well envy him. Even business premises were on much the same scale. A fuller's dyeing shed was let for 3s. 4d. a year; a shop (but a shop was only a tiny place) for 6s. 8d.; even the fulling-mill at Coitebury only brought in a pound a year, and we have to go to the great inns, the *Sterre* and the *George*, to find rents of £4 10s. and £6.

Of clothing it is not easy to speak, it differed so completely in character from modern dress. That of the upper classes

<sup>1</sup> Rogers, i. 57.



was undoubtedly costly; the gown of a gentleman was voluminous and might take seven yards of cloth, besides fur, while two or three yards sufficed for a yeoman. Langland has much to say of the fantastic complexity of the dress of the young men about the Court, and how they bullied their tailors.<sup>1</sup> The dress of the lower classes was simple, simpler than it is in our own time. Hand-weaving does not allow production so cheap as does machinery, but cloth could be bought at a shilling a yard and, unless common belief is wrong, cloth made by hand from handspun wool lasts much longer. Shoes were not expensive; shoes for boys cost fourpence, those for the Warden of a College sevenpence.<sup>2</sup> There is no reason to believe that the clothing of the working class absorbed a larger proportion of their income than it does now. Nor could much have been spent on luxuries. Imported delicacies like ginger, pepper, and even sugar could be bought at the fair, and 'spicer' is a trade designation, though an uncommon one. Wine varied in price from eightpence to one shilling a gallon; at the lower price it was good enough for the Sheriff and the King's Justice, and an ordinary gentleman could not have cause to complain of its cost. Spirits in any form are never mentioned, nor do any cases of gambling occur in the Court rolls. Opportunities for spending money in amusements were few, and the incidental additions to the cost of living from such causes cannot have been important.

Nor was the burden of taxation great enough to add materially to the cost of living. In the first year of Richard II, a year of average expenditure, the direct local taxation, including murage, amounts to £52 4s. 7d., the indirect to £57 14s. 1d. But the latter includes duties on wool and raw materials used in manufacture, the finished product of which would be mainly sold away from the City, and the duty paid, in the end, by an outside consumer. The whole local taxation that fell on the City would be well below £100, and that, with a population of 5,000, would mean a burden of less than five-pence a head. This sum does not include rents, fines, or admission fees to the Gild, for these cannot be classed as taxation, but

<sup>1</sup> *Richard the Redeless*, iii. 145-81.

<sup>2</sup> Rogers, i. 585.

does include all the market and other dues that went to make up the fee-farm of the City, and which may fairly be counted as contributing to the cost of commodities, and the total may be taken to cover all the local taxation that was borne by the individual citizens. The central taxation, the King's tenth, was not voted for every year, but when it did fall it meant a further charge of twopence-halfpenny per head. Sevenpence-halfpenny, or in modern money something well under ten shillings, a head a year is not a heavy average charge. The head of an average household who recently paid as much as 83s. a year in rates alone, would be thankful to escape for that sum as his whole contribution to local and imperial exchequers. The allowance made in collection of a subsidy or a rate for poor or absconding tenants is always small, sometimes not exceeding a few pence, and there is nothing to show that there was difficulty in raising the money. The expense of collection was very small, and what came out of the pocket of the ratepayer went almost undiminished into the City Treasury. Of course, all modern ratepayers get value for what is taken from them, particularly if they are of the class that takes advantage of free education; but when all allowance is made, I think it may be said that relatively to the cost of living, the wages of labour, especially unskilled labour, compare favourably with the rates of the end of the nineteenth century—very favourably with the rate of the middle of that century.

One thing which made for contentment was the purchaser's knowledge that his interest was looked after by Authority; there was the most careful provision to protect him against overcharging in price and inferiority in quality. The regulations for enforcing the assize of bread and beer, and for preventing regrating and forestalling, brought that home to him. This was a responsibility that not only fell on the local authority, but was accepted also by the central authority, the Crown. There is a great deal of social legislation in the fourteenth century, part of it, no doubt, for the repression of the labourer, but much of it was for his protection, even in defiance of economic law; and the preambles of statutes in



setting forth the evils they are designed to remedy, represent these evils as hardships to the commons that it was the duty of the government to deal with. In his oath to the Crown the Mayor is made to recognize the responsibility of the King for this protection of his subjects, and to swear that he will be vigilant in enforcing in his name the assize of bread and beer and of all other victuals. But there was one particular form in which the assertion of its power by the central authority was a boon that was felt very really by the poorer commons. This was the control over local markets by the King's officers, the Clerk of the Market and the Marshal.

The Marshal and the Clerk of the Market were properly officers of the royal household, and the former was the colleague of the Steward in the judicial side of the household work; 'they were the policemen, the gaolers, the maintainers of order, discipline and decorum over the household in peace, the host in war'.<sup>1</sup> Among other duties of the Marshal was that of seeing that the provisions of the household were good in quality and reasonable in price, and in carrying out this duty he had the power of holding a court, the court of the Marshalsea (called in our rolls 'curia Marchasie' or 'Marechal-sie'), and of committing to the prison of the Marshalsea. In course of time what originated in the organization of the household became a national authority; its jurisdiction was gradually extended to offences cognizable by common law, and the Clerk of the Market and the Marshal exercised powers in the towns. In many places the power was delegated to the local authority. At Southampton, by the charter of 1401, the powers of the Clerk of the Market are transferred to the Burgesses.<sup>2</sup> At Leicester, by the Charter of Henry IV confirming the grant of the town to John of Gaunt, the Duke 'shall have in place of the king the assay and assize of bread, wine and beer and of all manner of victuals pertaining to the office of Clerk of the Market of the late King [Richard II] with the punishment of the same'.<sup>3</sup> The powers were, how-

<sup>1</sup> Tout, *Administr. Hist.*, ii. 253.

<sup>2</sup> *Southampton Charters*, i. 51.

<sup>3</sup> Bateson, *Leicester*, ii. 215.

ever, not transferred at Winchester till a much later date, and it was not until the Charter of Elizabeth that the Mayor was nominated as the Clerk of the Market for the City. Throughout the fourteenth and fifteenth centuries the Clerk, sometimes with the Steward of the Marshalsea, makes visits to the City and holds the court of the Marshalsea. There are charges in the Chamberlain's accounts for his board, and for gratuities to him and his clerk and crier, and his assayers of weights and measures, and when the Steward himself comes he is entertained with some lavishness. The meaning of the control is illustrated by a letter of Wolsey's to Henry VIII, and it must have been substantially the same at an earlier date. Henry had delegated to the monastery of St. Alban's the right to appoint the Clerk of the Market for the town. Wolsey, who was Abbot of St. Alban's as well as Archbishop of York, had been accused of interfering, and had been reprimanded by the King. He writes back in his own defence: 'whereas the inquest and office there have not justly, discreetly and indifferently assessed and taxed the prices of the market, I who knew nothing thereof am not only discontented with them . . . but also thank your Highness whom it hath pleased to see the said prices reformed unto the due order'.<sup>1</sup> The same control of prices was exercised at Winchester. In the account roll of 33 Elizabeth there is an item for the purchase of a board, 'for the printing thereon the prices imposed on victuals by the Clerk of the Market of the Household of our Lady the Queen'. In the Charter of Elizabeth,<sup>2</sup> which delegates to the Mayor the office of Clerk, authority is given him to fix the assize of bread and other victuals and to punish offending bakers by drawing them on hurdles through the streets 'or to chastise them in any other manner as is now used by the citizens of our city of London'. It adds the proviso, 'our Steward and Marshal and Clerk of the Market shall not henceforth sit within the City'.

All the notices of the visits to Winchester of the Clerk of the Market in the fourteenth and early fifteenth centuries agree

<sup>1</sup> Ellis's *Original Letters*, series 2, vol. ii, pp. 17-21.

<sup>2</sup> The translation is printed in Milner's *Hist. of Winchester*, ii. 304.



with these accounts of his duties. He holds a Court which the Mayor has to attend, he brings with him his crier whose duty is to announce the prices authorized,<sup>1</sup> and he examines the weights and measures which have been stamped by the City officials, imposing, for example, in one case a fine of a mark on one, John Look, who had stamped a vessel wrongly. One of his visits is on the eve of St. Giles's Day, and can only mean that he exercised a control over Fair prices similar to that over City prices. The Clerk of the Market is in short the Central Authority's agent for keeping the local authority up to the mark, and is the nearest approach we have to the modern system of supervising local administration from Government offices in London. It gave the poor a security against possible corruption in their own local rulers, and it must have been a powerful influence in keeping opinion and sentiment on the side of authority.

This is the only part of City organization that is socialistic. Socialism is, in its proper sense, the exercise by the State of functions that originally belonged to the individual; the action of the Gild in controlling its members for the benefit of the whole is not strictly socialistic; it is not doing what the individual might have done for himself, and there is no tendency in the mediaeval town to get into municipal hands the control of the means of production and distribution. But when the State relieves the individual of the responsibility of seeing that he gets the proper value for his money, and undertakes the onus that naturally lies on the purchaser and assumes his functions for his own benefit, this is socialism, and so far the mediaeval City organization was socialistic, and anticipated locally a protection which has been since imposed centrally by a series of statutes with Ministries and Departments enforcing their execution. Otherwise the mediaeval system was individualistic; what are now municipal services were a duty of the individual, and it was only later that sacrifices which had been made personally came to be made

<sup>1</sup> At Exeter the published tariff of prices is called the 'Kynges Cry', *Shillingford Letters*, p. 92.

by the purse, and the service which a citizen had once rendered himself, he later rendered vicariously by paying in a rate for the specialist who performed it for him.

We have already spoken of several of these services, but some details may be added. A householder was responsible for the removal of his own refuse, but there was also in Upper Brook Street the Mayden's Chambre, or Midden Chamber, a public latrine. There was another to the east of the Cathedral yard, adjoining Colebrook Street, and it is probably this '*communis et longa garderoba*' for the roofing and maintenance of which a careful citizen, Nicholas Hanyton, left by will in 1369 a rent charge of six shillings on a house in Schulleworthestrete (Upper Brook Street) occupied by Richard le Drapere.<sup>1</sup> There was a '*fovea*', or pit, outside the Eastgate which needed periodical clearing and may have served a sanitary purpose; in the Brooks, too, were streams for public use for washing and drawing water, and care was taken that they should not be unnecessarily defiled.

The Mayor and Bailiffs were responsible for removing leprous persons, '*alibi ubi insani morari consueverunt*'—that is, to a lepers' hospital; and there is a case in 6 Edward II of one Peter de Nottelagh, who had been so removed, who appealed to the King and was examined before the Council at Windsor; he was pronounced to be '*sanus et mundus*', and the Mayor and Bailiffs were enjoined to let him remain in the City without further disturbance. Medical practitioners are found in the City as far back as the survey of 1148, in which two are mentioned living outside the Southgate alone, and, '*leche*' and '*medicus*' are descriptions of plaintiffs in the Court Rolls of Edward III. Provision for sickness and old age was made by the religious corporations and hospitals existing in the City, as well as by buildings devoted specially to the purpose, some of which have been mentioned already.<sup>2</sup> But Winchester was fortunate in having the two Hospitals of St. John and St. Mary Magdalen. We have no details of the number of beneficiaries of the latter; we know that the

<sup>1</sup> Black Book, fol. 33b.

<sup>2</sup> p. 87.



City had contributed three pounds a year to 'the men on the hill'<sup>1</sup> from a very early date, but of St. John's we have full account. In 21-22 Richard II there were four pensioners receiving from it an allowance of from four to twelve pence a week; in the infirmary were a number of sick and feeble persons, of whom three are reported as dying during the year.

There was provision in the City for upper-class education, but beyond the fact that the description of the School as the 'alta scola' implies the existence at one time of a school of another grade, we have no evidence of any system of common education for the poorer classes, except for such children as entered the monastery service. The 'alta scola' was at the north end of Symonds Street, just outside the Close walls; it is rated in an undated murage roll of this period at twelve pence, and the Master, 'dominus Iohannes', who lives in another part of the town and not on the school premises, pays sixpence for his own house. This is the school to which St. Cross sent its choirboys and provided for their food, and the Priory of St. Swithin used it for the education of boys in training for the priesthood. The number of the latter was very small; there is a recurring charge in the account rolls of the monastery for their board, but there were never more than five at one time during the period with which we are dealing.<sup>2</sup> The well-to-do citizen must have had access to this school for the education of his sons; there was certainly a demand for education at the time, and between 1363 and 1400 twenty-four Grammar Schools are known to have been founded in England. Then, however, came the Lollard movement, authority took alarm, licences to teachers were given with more restriction, and by 1439 William Byngham, parson of St. John Zachery in London, declared that in a journey from 'Hampton to Coventre' and thence to Ripon he had found seventy schools empty which had been occupied fifty years before.<sup>3</sup> The Jews had a school of their own; it is mentioned with their

<sup>1</sup> p. 180.

<sup>2</sup> Kitchin, *Ob. Rolls*, p. 204, note 5.

<sup>3</sup> Coulton, *Social Life*, p. 205.

Synagogue in the Stake roll of 25 Edward I as in Schurtenestrete (Scowertene, or Jewry, Street).

The life of the citizen was much affected by the power of his local community to make by-laws carrying with them punishments. The isolation in which a town community stood, and the rarity of statutes dealing with personal conduct and relations, threw into the hands of the governing body of a town a power almost equal to that of a legislature. The Commonalty in Burgh-mote could, and did, make regulations which amounted to a code of local legislation, and had not to defer to a central authority for its approval, and this added to the individuality of town life, which was already secured by its right to keep its customary rules in law and procedure. Many of these regulations deal only with trivialities. Among the ordinances passed in Burgh-mote from the beginning of the reign of Henry IV, we find such local legislation as that any one slandering the Mayor shall be imprisoned at the will of the Mayor and shall pay to the use of the town twenty shillings;<sup>1</sup> legislation dealing with faults of manner and behaviour, 'no maner of man of the XXIV misebare him self in woorde in the Kinges Courte of Winchester or any assemble or in the Counsell house' on pain of a fine of 6s. 8d.;<sup>2</sup> and legislation enforcing the closing of shops on Sundays under a fine of 40s., to be exacted by the 'Mynisters of the Citie without any contradiction'.

It gives us a very vivid picture of the isolation of a mediaeval corporation, and of the slowness of the growth of a common law indential for all, when we find a community enforcing penalties on its members that affect their purse and their liberty by local law, and the law accepted as unquestioned as its rules and scale of fines by the members of a Club. In some cases town independence makes possible valuable social reforms; at Worcester the truck system was prohibited by town ordinance, anticipating a reform not adopted for the kingdom at large until 1831. The custom had arisen there that 'Artificers . . . shulde none other wyse be contented or

<sup>1</sup> Book of Ord., p. 3 b.

<sup>2</sup> Ib. p. 7 a.



payde but in mercery, vitelle, or by other meanes, and not in syluer', and the practice is forbidden under pain of a fine of twenty shillings.<sup>1</sup> But whether it is in trivial or in valuable legislation, a town community was left largely to itself, and the conditions of its life were not raised to the uniform level which is secured by the series of statutes affecting the whole country which have been passed since the early part of the nineteenth century.

The picture we have had to draw is not, it must be admitted, an unpleasant one. It is that of a law-abiding, contented, self-respecting community. It is free from great vices; crime is rare, though misdemeanour—but it is largely that of a technical nature—is common; the vices of a modern town are not unknown; brothels existed, and nuns even are named among the women harboured there; on the other hand, drunkenness is never mentioned in the Court rolls. Possibly when the common form in which alcohol was taken was one that served as a food, drinking for mere pleasure was less common, but of course drunkenness in itself did not constitute a legal offence. The working classes had a laborious and possibly dull, but not a hard, life. Of the life of the women of the upper and lower classes the records naturally tell us nothing, but of that of the men of the upper class we know much. It was well filled, abounding in interest from the endless civic duties that their position involved, most of which were accepted with readiness and even with pride. As a class they were litigious, and they were rigidly conservative of what maintained their privilege; their outlook was narrow; they did not feel they were citizens of their country; they bore little part in its defence; and even the share they took, through representatives, in the Great Council of the Realm they regarded as service to themselves, not to their country. At the same time they were intensely patriotic for the City to which they knew they owed so much; they gave their leisure unstintingly to its service, and they had

<sup>1</sup> T. Smith, *Eng. Gilds*, p. 383.

a reverence for government as government, whether exercised by themselves or by legitimate action of the Crown.

The object of these pages will be fulfilled if the interest of citizens of Winchester is deepened in the documents of which they are the trustees. Those documents have been cared for by some devoted men whose labour has saved much that might have been lost. But much has been lost, and much has been seriously injured by accident and neglect. For what remains the most important thing is that all records of historical value should be in print, and the contents at all events made safe for students. The local amateur antiquary is a person that historians dread, and the present writer is sensible of his own unworthiness in stepping on the fringe of a territory where only the trained scholar, lawyer, or historian has a place. Yet there is no need for an amateur to abstain from the study, though he may not claim to interpret. The difficulty of reading a document is at first great, but it diminishes with practice, though a reader will ever lament the dearness of parchment that made the mediaeval scribe save space by the use of 'tittles' and abbreviations that were familiar enough to him, though at times difficult puzzles to a later age. Nor is the knowledge of Latin required very deep; important documents such as charters and letters patent are carefully and exactly written; the vocabulary, of course, is that of the Middle Ages, and there are many features that mark the transition from Roman to Romance in language; *quod*, for instance, has become a conjunction, and the infinitive a substantive, but the distinction of moods, the most vital of distinctions for meaning, is carefully observed. Most of these are documents issuing from the Royal Chancery or under the Privy Seal. It is otherwise with the work of the local scribe. His Latin is often both slovenly and limited. He is as indifferent to genders as a schoolboy, and prepared to express a command equally readily in future, present, or even past indicative. When in need of a Latin equivalent it is sufficient to latinize an English term: charcoal-burners



become 'syndermanni', or a bucket 'bukettus'; easier still, the French article preceding an English word converts it into a form that will entitle it to fit into a Latin sentence, and he enters his sixpence under three languages as 'soluti pro le whelbarwe'; or an apologetic participle saves him trouble and he will write 'pisces vocati crabbe', though it could not have been much effort to think of 'cancer'. Anglo-French is different; it was a living language, and a modern reader will find that to ensure accuracy in reading and interpreting needs a long study of it as a language. But no amateur will fail to be impressed by the profundity of his own ignorance of history and of law. At every step he will be met by terms and references of the meaning of which he is ignorant. Fortunately for him, he inherits the results of the immense and fertile historical research of the last half-century, and the key to many of his problems can be found in the study of the works of the great writers on the English Constitution and English local custom. But it is a work for a lifetime, and for a mind of rare gifts, to endeavour to add to a science which Stubbs and Maitland and Round and Bateson, or in our own county men like Kitchin and Hearnshaw and Studer, have made their own. The amateur's aim is humbler. The lesson that the great historians have taught him is that history gives a false view unless it is based on first-hand knowledge of original authorities. A passus of *Piers the Plowman* or of *Richard the Redeless*, a petition presented in Parliament, the letters patent of the King, give us a truer and more vivid impression of the problems of the reign of Richard II, the most modern in its spirit of mediaeval times, than any we can get from text-books. The materials contained in the records of old English towns may be made to add the same reality to knowledge of town life and government for any one who has the opportunity and the leisure to use them.





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# ILLUSTRATIONS

## USAGES OF THE CITY OF WINCHESTER

(from the copy preserved in Winchester College)

1. Ces sunt les anciens usages de la cite de Wincestre ke unt este usees entens de nos ancestres. Sunt e deuent estre a la franchise Sauuer e sustener.

2. Ce est a sauer ke il iert<sup>1</sup> en la vile mere eleu par commun assentement des vint e quatre iures et de le commune, principal sustenur de la franchise: le quel mere soit remuable de an en an e li quel mere nule plente ne receiue ne nul plai par soi ne plede de chose ke tuche la prouoste de la vile.

3. Derechef en la cite deiuent estre vint e quatre iurez esluz des plus prudeshomes e des plus sages de la vile e<sup>1a</sup> leaument eider e conseiller le avandit mere a la franchise sauuer e sustener.

4. Les queus vint e quatre deiuent a la couenable summune le devantdit mere venir, e se il soi absentent senz rennable enchesun chescun par soi est en la merci de un besant<sup>2</sup> al preu de la cite a chescune feiz.

5. Derechef dous baillifs iurez deiuent estre en la cite esleuz a leaument la prouoste garder e a tute gent comune dreiture fere, dunt le mere e les vint e quatre a le Burchmot de saint Michel deiuent eslire quatre prudeshommes e la commune de ces quatre eslire les dous auandiz.

6. Derechef quatre serianz deiuent estre en la vile, iurez, verges portanz a fere les comandementz le mere e les baillifs auantdz.

7. Derechef nul des auantdz vint e quatre ne doit sustenir partie en curt de la cite ne estre cuntur<sup>3</sup> ne enpernur de parole<sup>4</sup> en preiudice de la franchise de la vile.

8. Derechef dous coruners deiuent estre en la cite iurez, de par nostre seignur li rois u ses justises a fere lur office tant en la Sokne cum en la cite auantdite.

9. Derechef les baillifs auantdz deiuent al chef del an rendre sus lur roulles de plai e de terage a mettre en comune garde pur cas ke en pust auenir.

<sup>1</sup> Lat. *erit*. Words united in the original are left so in the transcript; e.g. *iad* = 'y a', *auendre* = à vendre.

<sup>1a</sup> Probably an error for *a*.

<sup>2</sup> two shillings.

<sup>3</sup> One who draws up the 'count' or declaration of the plaintiff.

<sup>4</sup> One who undertakes to plead for another.



10. Derechef nul de la cite ne doit fere uerer bureaux ne chaluns dehors les murs de la cite sus peine de perdre le auoir u la value.

11. E fet a sauoir ke chescun grant ustil dunt len oure les bureaux doit a la ferme de la vile cinc soz par an, mes ke il ne uere fors un sul drap.

12. E fet a sauoir ke nul ne doit estre franc ki ke unkes le tienge en sa mesun u aillurs forpris un an<sup>5</sup> al us le mere e un autre al hospital e li tierz al clerck de la vile.

13. E fet a sauoir ke les telers ke uerent les bureaux deiuent prendre de la tuz seinz pur le uere del drap xviii deners dreke a la annunciaciun notre dame, drekes autrefeiz les tuz seinz dous soz.

14. E fet a sauoir ke nul ne doit fere burel uerer si il ne soit de la franchise de la vile, forpris ke chescun fulir face un par an e chescun teler un a rendre la ferme li rois.

15. Des petiz ustilz dunt len uere les chaluns est issi ke chescun ustil turs<sup>6</sup> doit a la ferme de la vile xii deners par an, ustil sengle vi d., mes ke il ne uerent fors un sul drap per an.

16. E fet a sauoir ke nul ne est franc ke tant ne rende.

17. E ke les draps soient de longur e de laur sulump la ancienne asise del mester sus peine de perdre les draps ke serrunt atenz pur autres u la value.

18. E fet a sauoir ke li chaluns de quatre aunnes<sup>7</sup> lung serra de dous verges leez<sup>8</sup> deuant li tapener<sup>9</sup>; Li chaluns de trois verges e demie la lungur auera dous verges<sup>10</sup> un quartrun meins de laur deuant li tapener; Li chaluns de trois verges e un quartrun lung serra aunne e demie e demi quartrun leez deuant li tapener; Li chaluns de trois aunnes la lungur serra de aunne e demie deuant li tapener.

19. E fet a sauoir ke nul enprentiz ne doit estre mis sur ustil de tapener a uerer si il ne doint<sup>11</sup> x soz al rois si il ne soit fiz de celi ke sus le met u fiz de sa soer, e ke nul del mester ne face couenant oue<sup>12</sup> seriant de autre dreke li iurn seint Andreu<sup>13</sup> soit passe sus peine de demi marc al us li rois.

<sup>5</sup> The two dots are a sign of deletion; we can hardly have the right reading; the sense required is 'except for rendering a toll (in kind) to the Mayor'; 'un' refers to 'drap' (§ 11).

<sup>6</sup> *ustil turs*: Dr. Studer suggests to me that this means 'double loom'. Cf. his note on 'tourn' in *Oak Book of Southampton*, i. 75, note 37. An inquest of 8 Edward I speaks of 'utensile in quo operantur duplices chalones' (*Arch. Journ.* vii. 374).

<sup>7</sup> ells.

<sup>8</sup> wide.

<sup>9</sup> weaver.

<sup>10</sup> Yards, used as the equivalent of 'aunnes'.

<sup>11</sup> doint=donet.

<sup>12</sup> with.

<sup>13</sup> Nov. 30.

20. E ke nul del mester de tapeners ne uuere nuitantre, fors de la feste seint thomas li Apostle<sup>14</sup> dreke le nowel, sus peine de la merci de vi d. tante feiz cume il serra ateint.

21. E fet a sauoir ke nul del mester as burillers ne doit uuerer nuitantre fors del jor seint Nicolas<sup>15</sup> dreke le Nowel sus meimes la peine.

22. E ke dous prodeshomes del mester as tapeners soient esleuz e iurez a garder tut les anciens usages al mester apendanz, e a gages prendre sur ceus ke il trouerunt en defaute, les quels gages il deiuent presenter as baillifs de la vile a la procheine curt, sus peine de la merci li rois.

23. E iceus dous iurez garderunt la seude<sup>16</sup> u len vent li fil ke nul regrat ni soit fet auant la hure de terce, e si il trouent nul regrat li auoir ke il auera akate auant la hure auant dite serra forfet, u la value, a la ferme de la vile. E ke nul regrater neit en la seude auant dite li wiche ne ferme<sup>17</sup> par unt il pusse les regraz conseiller. E si iceus dous iurez trouent chose muillee u autre fausine la liuerent tant tost a bailiffs a fere le iuwise<sup>18</sup> cume de chose fause.

24. Derechef nul macecren<sup>19</sup> ne autre home ne put auoir estal en la grant rue de Wyncestre si il ne face a la vile le pur quei.

25. Derechef nul homme ne put acheter quirz verz ne peau verte en la vile si il ne soit de franchise sus peine de perdre le auoir a la ferme de la vile. E ceus ke sunt enfranchise par unt il les pount acheter ne les deiuent pas verz hors de la franchise mener.

26. Derechef nul pessuner ne puleter ne achatera pessun ne pulettrie a reuendre avant ke terce soit sune.

27. Derechef nule manere de vitaille ke vient en la vile a vendre ne soit hors de la vile porteie desvendue senz cungie de baillif, de la ure ke ele soit une feiz mis a vente, sus peine de perdre li auoir.

28. Derechef nul regrater [nul regrater]<sup>19a</sup> ne uoist<sup>20</sup> hors de la vile encontre la vitaille a acheter la auend ke elle vienge en la vile pur encherir la vitaille sus peine de estre quarante iurs en la prisun li rois.

29. De la custume de pessun est issi ke nul home ne i pust auoir

<sup>14</sup> Dec. 21.

<sup>15</sup> Dec. 6.

<sup>16</sup> shop. For the Cloth-selde see above, p. 77.

<sup>17</sup> *li* is probably an error for *ni*; *wiche* may mean 'door' (cf. *guichet*, a wicket), or it may represent O.E. *hwicce*, M.E. *whicche*, a 'hutch' or chest; *fermine*, 'a strong place'. The sense is, there is to be no enclosed space (or no strong box) for hiding regrating or its products.

<sup>18</sup> See above, p. 134.

<sup>19</sup> butcher.

<sup>19a</sup> the words within brackets are repeated in the MS.

<sup>20</sup> may go.



bord fors sulementes li rois, e chescun bord doit a la rente li rois un ferthing li iur ke il iad pessun sure. E ce ne pust nul home forclore par nule manere de franchise.

30. Derechef chescune carecte<sup>21</sup> ke vient en la vile oue pessun a vendre, quel pessun ke ele porte, de quele franchise ke ele soit, doit a la rente li rois une maalle<sup>22</sup> tante feiz cume ele vient pur le bord ke li esta devant.

31. Derechef chescune carecte hors de franchise doit al rois de custume dous deners e maalle, quel pessun ke ele porte a vendre. E chescune summe de chiual<sup>23</sup> oue pessun freis ke vient en la vile a vendre e soit hors de franchise doit al rois treis maalles de custume, e de pessun sale maalle.

32. Derechef chescune carecte hors de franchise venant en la vile oue saumun doit al rois de custume iiii<sup>or</sup> deners mes ke ele ne porte fors un sul saumun. E summe de chiual, meske il ne porte fors un sul, ii deners. E sus dos de home un dener.

33. Derechef chescun cent de lampruns venant en la vile doit cinc lampruns de custume as baillifs de la vile a lur propres us e nule autre custume.

34. Derechef chescun vendur de harang en quarame<sup>24</sup> a detail doit al roi de custume vi d., e as baillifs un picher de vin, de quele franchise ke il unkes soit.

35. Derechef li usage des macecrens est tel ke chescun macecren hors de franchise ke tient estal doit al rois de custume xxv deners par an.

36. Derechef tuz ceus ki sunt hors de franchise ke achatent aumailles berbiz u porcs e reuendent senz tuer deiuent al rois v d. par an de la custume de parrocs,<sup>25</sup> e al clerc de la vile un dener pur son nun enrourler, mes ke il ne le face fors de une sule beste. E tus les marchands de aumailles berbiz u porcs ke sunt hors de franchise e hantunt la vile, mes ke il ne viengent fors une sule feiz par an si deiuent memes la custume. E deiuent aster<sup>26</sup> les bestes de hors la porte del West de Wincestre al lew des parrocs de la feste de seint Michel dreke la feste seint Nicolas del matin del iur dreke haute terce, e apres terce en Mensterstret: E ilec par tut li an fors pris li terme e la ure avandiz.

<sup>21</sup> cart.      <sup>22</sup> halfpenny.      <sup>23</sup> *summe de chiual*: horse-load (σάγμα).

<sup>24</sup> Lent.      <sup>25</sup> paddocks.

<sup>26</sup> *aster* (*agister*): to take an animal to its 'giste', or resting-place; the 'agister' is still an official of the Verderers of the New Forest. But *aster* may originate from *asseter*, 'to place'.

37. Derechef chescun pestur de la vile ki fet pain a vendre doit al rois de custume ii soz par an e al clerc de la vile un denier. E deiuent fere blanc pain e bien quit sulump la vende del ble e sulump la asise de la marchaucie<sup>27</sup> li rois, ce est a sauoir ke si li pain de ferthing est en defaute de rien utre duze deners<sup>27a</sup> li pestur est en la merci, e si pur chescune defaute dedenz la somme de trois soz<sup>27b</sup> sulump la quantite del trespas. E quant li pain de ferthing est en defaute de rien utre trois soz le pestur porte le juwise de la vile.<sup>27c</sup>

38. Derechef chescune venderesse de pain en la grant rue de Wincestre ke est hors de franchise doit al rois de custume par an ii soz, e al clerc de la vile i d. si il vendunt par an, e si ele vendent meins, sulump la quantite : E as horbes rues<sup>28</sup> vi d. u trois deners sulump ce ke sanz mainuure<sup>29</sup> est. E fet a sauoir ke nule de eles ne doit quere<sup>30</sup> pain fors la u les corbailles esterrunt sus peine de la merci del vendur e del akatur avant la hure de nune. E ke nule de eles ne querge pain de nul pestur dunt ele ne pusse auoir sun garant, e si ele le fet ke ele memes le garentisse. E ke chescun pestur eit sun sel cunu sur sun pain ke il ne le pusse dedire si il soit ataint autre ke bon.

39. Derechef chescune braceresse del poier de la vile ke brace auente face cergeise bone sulump la vente del ble e sulump la asise donee, e si autrement le funt soient en la merci li rois tante feiz cume baillifs les purrunt ateindre.

40. Derechef nule braceresse hors de franchise ne pust bracer dedenz le poier de la cite auente si ele ne face gre as baillifs sulump la quantite de son fet.

41. Derechef nul home hors de franchise de quel mester ke il soit ne pust seude tenir, vendre, ne akater dedenz le poier de la vile senz gre fesant as baillifs de la vile.

42. Derechef chescune carecte vendue en la vile a home hors de franchise doit al roi de custume une maalle.

43. De menue custume<sup>31</sup> est issi ke une pierre de leine ke vint en la vile seueraument e soit hors de franchise doit al rois de custume un

<sup>27</sup> See above, p. 158.

<sup>27a</sup> penny-weights.

<sup>27b</sup> ounces.

<sup>27c</sup> See above, p. 134.

<sup>28</sup> *horbes rues* : blind streets.

<sup>29</sup> *sanz mainuure* : Smirke suggests that 'sanz' is an error for 'son' according to the amount of her business.

<sup>30</sup> to fetch.

<sup>31</sup> *menue custume* : petty customs ; in 26 Henry VI eight pounds are paid by the Chamberlains to the Bailiffs as 'peticustuma'. At Southampton petty customs are let to farm by the town, grand customs by the Crown (*Assembly Books of S.*, i, p. xxxii).



ferthing, e dous ensemble un ferthing, e trois ensemble une maalle, e quatre une maalle, e cinc une maalle, e sis ensemble trois ferthings, e set trois ferthings, e wit un denier, ce est a sauoir de ceus ki sunt hors de franchise. E si il iad noef pieres ensemble u seueraument a un home a une feiz, si doit al rois ii d. de pesage, de quele franchise ke il soit ke la porte.

44. De furmage, bure; oinct<sup>32</sup> e siw<sup>33</sup> est en memes la manere en tuz poinz si cum dit est auant de la custume de leine. E fet a sauoir ke de leine, furmage, bure, siw e oinct, u le pesage li rois apent, doit en prendre tant de la demi poise seuerie cume de la poise entere. E fet a sauoir ke chescune manere de auoir, u li pesage li rois apent, ke soit mene de denz le poier de la vile auendre doit le pesage li rois par ki pois il soit pese, e de quele franchise ke il soit a ki le auoir est. E si il iad nul priue<sup>34</sup> u estrange ki le pesage doit e le cuncele utre nuit il est en la merci li rois sulump la quantite del trespas.

45. Derechef quant taillage doit estre leue en la cite par le comandement li rois u pur commun busung de la vile sis prodeshomes deiuent estre esleuz par commun assent e iurez, trois des vint e quatre e trois del commun, a asser cel taillage e a receiure e a leaument despendre e leal acunte rendre. E quant mere u baillifs u autres prodeshommes vunt hors de la vile pur commun pru sus commune burse si deiuent a lur returner rendre leal acunte a ceus sis auantdis sanz delai.

E si aukun prudome de la vile preste son auoir al commun busung de la vile par la main de ceus sis iurez auandiz soit enprompte par taille e par memes ceus renduz.

46. Derechef kant len puruoit beuere gilde markande len doit par commun assent par les mesters de la vile enquere genz ke couenable soient e de bone fame a requiller en gilde markande.

E ke chescun de ceus eit en chatel quatres libres vaillant u plus, e ceus ke si serrunt aquilliz serrunt hlotez<sup>35</sup> a quatre meisuns cume soleient estre a tuz tens.

E kant len auera beu gilde markande les quatre mesuns soi assemblerunt a voier ce ke il auerunt leue e ce ke purrunt leuer, e si trespas iad fet par commun assent soit amende.

<sup>32</sup> *oinct* (*unctum*): used as cart-grease (T. Rogers, *Hist. of Prices*, i. 410). <sup>33</sup> *siw* (*sebum*): tallow. <sup>34</sup> citizen: opposed to alien.

<sup>35</sup> 'appointed by lot'. The only other mention of four houses that I know is in the Mayor's account of 2 Richard II, where receipts are entered as from 'four houses' of Laghmen; for an explanation see above, p. 106.

E si nule mesun vaille plus de autre soit charge a sa value.

E ke li argent ke serra leue des quatre mesuns auantdis soit baille as sis prodeshomes auantdis esleuz e iurez par commun assent a leaument garder e leaument dispendre e leal acunte rendre as prudeshomes de la vile dous feiz par an par taille u par escrit.<sup>36</sup>

47. Derechef si nul des vint e quatre truue nul forein dedenz le poier de la vile ke dette li deiue, il list<sup>37</sup> a li memes fere la destresce sus son detur deske il puisse as baillifs venir. E nul de la franchise de la cite ne doit rien doner as baillifs de la vile pur fere destresce sus les deturs priues u estranges dementers<sup>38</sup> ke il offre wage e plege sur ceus ke la dette li deiuent.

48. Des portes de Wincestre dunt les baillifs de la vile enpernent la custume de ceus ke hors de franchise sunt e custume deiuent est issi ke chescune carecte ke porte ble auendre doit une maalle de custume tantes feiz cum ele vient : E summe de chiual ferthing.

49. Derechef chescune carecte ke porte fer u acer ii d., e summe de chiual i d.

50. Derechef chescune carecte ke porte neues seles a carectes, parruns u paruneles,<sup>39</sup> cordes u trez,<sup>40</sup> doit de custume ii d. e summe de chiual i d.

51. Derechef summe de<sup>41</sup> carecte ke porte pierre a mulin iiii d. E chescune carecte ke porte mule a aguser<sup>42</sup> ii d.

52. Derechef chescune carecte ke porte esteim u plum<sup>42a</sup> a vendre iiii d., e summe de chiual ii d.

53. Derechef chescune carecte ke porte korc<sup>43</sup> dunt len teint ii d., e summe de chiual i d.

54. Derechef fauces e faucilles<sup>44</sup> ke venent en carecte deiuent de custume i d., e summe de chiual ob.

55. Derechef chescune carecte ke porte quir tane auendre doit ii d., e summe de chiual i d.

56. Derechef warence<sup>45</sup> ke vient en carecte auendre ii d., e summe de chiual i d.

<sup>36</sup> *taille u escrit* : tally or deed.

<sup>37</sup> *il list* : it is lawful.

<sup>38</sup> i. e. until he give security that he will prosecute.

<sup>39</sup> parts of cart-harness; Godefroy gives 'parune', a horse-collar.

<sup>40</sup> traces.

<sup>41</sup> *summe de* : repeated from the last clause in error for 'chescune'.

<sup>42</sup> *mule a aguser* : grindstone.

<sup>42a</sup> tin or lead.

<sup>43</sup> cork, or orchil, a purple dye obtained from a lichen.

<sup>44</sup> *fauces e faucilles* : scythes and sickles.

<sup>45</sup> madder, a red dye.



57. Derechef chescune carecte ki porte weide<sup>46</sup> auendre iii d., e summe de chiual i d.

58. Derechef chescun cutere<sup>47</sup> ke meine en la cite cendre ke affert a weide doit al rois de custume vi d. par an, e al clerc i d. pur son nun enrourler, mes ke il ne vienge fors une feiz par an.

59. Derechef usage est del mester de teinterie en la cite ke dous prudeshomes e leaus soient esleuz par commun assent e iurez a assor le weide de estranges merchanz ke vient en la vile auendre a fere leaument la assise al vendur e al akatur.

60. Derechef chescun tanur ke tient bord en la grant rue de Wincestre doit pur la rue ke il purprent ii s. per an e al clerc i d. en nun de tangible. E chescune venderesse de siw u oinct a detail doit la veille de Paske i d. en nun de smergable.

61. Derechef chescun suur<sup>48</sup> ke fet soulers de vache nouveaux doit memes la vile ii d. en nun de scogable, e ces usages sunt de ceus ke sunt de franchise ausi bien cume des autres.

62. Derechef il iad en la cite auantdite un sel commun e autentic dunt len sele les chartres des feffemenz de la vile, les quels chartres auerunt este en la garde des Aldermans ke auerunt fetes les seisines un an e un iur sanz chalenge de nulli, al quel seler len crie li ban<sup>49</sup> parmi la vile li tierz iur auant ke len sele.

E les chartres ke si serrunt presentees par les Aldermans auandiz ki temonirunt la seisine bone e la garde de la chartre sanz nulli chalenge, serrunt selees e sauues par cel sel a remanant.

E fet a sauoir ke chescune chartre ke serra de cel sel selee doit pur le enseler vii d. pur cire e pur tut.

E fet a sauoir ke le sel auantdit serra garde desuz trois clefs, dunt dous prodeshomes des vint e quatre iurez garderunt les dous : E un prudome del commune la tierce.

E cel coffre oue trois les clefs serra mis en un greingnur cofre ferme de dous locs dunt un prudome des vint e quatre gardera la une clef e un del commun gardera la autre.

63. (1) Lordre des pleis ke len pleide en la cite de Wincestre si est itel par usage ke chescun homme de la franchise de la cite ke est

<sup>46</sup> woad, a blue dye.

<sup>47</sup> countryman. Smirke suggests that the 'cendre' is the potash used in scouring and dyeing; 'affert a' would imply that it is the lye used in removing the oily matter from the woollen fabric before dyeing.

<sup>48</sup> shoemaker.

<sup>49</sup> notice given by proclamation.

enpleide pust auoir trois rennables sumunses auant aparance si auoir les veut, u atachment ne apent,<sup>50</sup> e pur son meinpast<sup>51</sup> autretant.

(2) E fet a sauoir ke celes trois sumunses deiuent estre fetes par trois iurs continuez si feste sollempne nel desturbe u ke curt ne soit de iur en iur tenue, issi ke li pleintif a chescune curt soi purhoffre a la sumunse procurer.

(3) E si home est atache u sumunse apent a la procheinie curt soit la destresce deliuree, e il eit ses rennables sumunses sulump li usage de la vile.

(4) E si il ne est truue en vile kant len comande fere la premiere sumunse nule ne li soit fete auant ke il vienge en vile si ce ne soit de plai de tere par bref.<sup>52</sup>

(5) E si home hors de franchise soit enpleide il ne auerat ke une sumunse utre une nuit, e si il soit en vile truue.

(6) E si il soit enpleide par bref de plai de tere il pust auoir, si il veut, trois continueles sumunses cume ceus ki sunt en franchise.

(7) E si home ki est de franchise a la premiere sumunse u a la secunde en curt aperge il est tenu respundre cume a la tierce. E kant il appara sanz destrece liquel ke il soit de franchise u nun, e soit de la vile, si pust auoir iur de la vile a respundre, si rennablement le demande. E par le iur de la vile de denzain a dedenzain<sup>53</sup> delai utaine<sup>54</sup>: e si par essoigne u par aparance est pleide tut le plai de utaine en utaine dreke il soit cheui. E si forein enpleide dedenzain ne at ke le tierz iur apres apparue, par le iur de la vile ne par autre delai.

(8) E kant dedenzain enpleide forein li forein at ses delais de utaine en utaine sanz iur de la vile, e a apparue<sup>55</sup> apres essoigne de plai de tere la wue<sup>56</sup> si ke nul excepciun ne la toille, si ele ne tuche droit, e ke commune loi soit entre li demandant e li defendant a bref

<sup>50</sup> provided attachment does not lie.

<sup>51</sup> household.

<sup>52</sup> par bref: see note 57 (§ 63. 8).

<sup>53</sup> between inhabitant and inhabitant; 'denizen' is from 'de intus', but there was a fancy derivation from 'de donaison', as if the franchise were from royal grant, which may account for the redundant 'de'.

<sup>54</sup> utaine: octave, i.e. a week's adjournment.

<sup>55</sup> e a apparue: 'and in plea of land he is entitled to the view on appearance after esoin, provided that no exception exclude it, if it touch not right, and provided that common law be between plaintiff and defendant by writ of right in prosecuting and defending, sickness, battle, and great assise excepted; in such manner that inquest taken by twelve true men on oath decide the right thenceforward.'

<sup>56</sup> the verification made on the spot by a jury.



de droit <sup>57</sup> en contant e en defendant forpris langur <sup>58</sup> bataille <sup>59</sup> e grant asise, <sup>60</sup> issi ke enqueste prise per duze prudeshommes iurez trenche droit a remanant.

(9) E fet a sauoir ke les brefs ke len pleide en la cite par deuant justises u pardeuant les baillifs de la vile sunt ceus, bref de nouele deseisine <sup>61</sup>: E tuz maneres de iustitez, <sup>62</sup> forpris annuele rente, e bref de droit de duere <sup>63</sup> e de rennable partie <sup>64</sup> e de droit [droit].

(10) E ke demandant e defendant pust fere aturne a tuz maneres de plais par bref e sanz bref en presence de partie.

(11) E ke essoigne de utremer ne soit aluee en nul manere de plai iete pur celi ke soit trueue a sumunse, e si il ne est trueue soit iete la essoigne sur la premere sumunse u nient aluee: e si eit quarante iurs, e si dedenz les quarante iurs vienge en vile e li pleintif voile siwere soit resumune sus la sumunse auandite, e pust duncke, si il veut, geter une essoigne del mal de venue <sup>65</sup> e auoir delai utaine, issi ke devant respuns ni gist nul autre delai, si ce ne soit par furcheure de plusurs parceners <sup>66</sup> de plai de tere par bref.

(12) E a plai de dette sus chef respuns est issi ke si li demandant porte taille u escrit e demande li aport entierement <sup>67</sup> nul iur de acunte ne soit grante par la curt sanz asentement del demandant, mes li defendunt alegge sa paie fete par taille u par escrit u par siwte, issi ke si il porte taille u escrit les pruffe sulump lur nature, e si il meine siwte son auersere eit son defens sulump lei de tere.

<sup>57</sup> *bref de droit*: 'no one was bound to answer in the Court of his lord concerning his freehold without the King's writ'; hence such actions, if heard in a borough Court, must be so by king's writ, the writ of right (see K. Digby, *Real Property*, p. 71).

<sup>58</sup> the essoin or excuse of sickness.

<sup>59</sup> See p. 30 above.

<sup>60</sup> *grant asise*: the principle of jury applied in cases of landed property. The choice of the twelve recognitors was made in the King's Court and proceedings in local Courts stopped.

<sup>61</sup> *nouele deseisine*, the assise of novel disseisin was an action to recover possession of a tenement from which the plaintiff alleged that he had been disseised since the first crossing of Henry III into Gascony.

<sup>62</sup> writs addressed to the sheriff beginning with the word 'justicies', i.e. 'you shall see right done'.

<sup>63</sup> the claim of a widow on the property of her deceased husband.

<sup>64</sup> *rennable partie*: a writ 'de rationabili parte bonorum' lay for the widow against the executors of her husband.

<sup>65</sup> *mal de venue*: the essoin 'de malo veniendi' was based on illness that prevented the plaintiff's appearance.

<sup>66</sup> *furcheure de parceners*: 'parceners' are co-heirs, as when daughters share the property of their father; as there was unity of title it was possible to secure delay by the fiction of division, making the co-heirs separately parties to the suit (see above, p. 17).

<sup>67</sup> payment in full.

(13) Derechef apres la mort de chescun tenant en fe deiuent les baillifs de la cite simplement seiser les tenemenz des quels il murt seise pur sauver mun <sup>67a</sup> ki soit plus prochein heir e a la prochein curt al plus prochein aparont soient les auantdis tenemenz renduz, issi ke, si nul pur plus prochein alegge u pur parcuner <sup>68</sup> ke en tere soit, eient les amis iur de fere li venir sulump la destance des leus, e si hors de tere quarante iurs, e si a sun iur vient eit memes le estat ke il eust eu si il eust este en present le iur ke son ancestre murust. E si a son iur ne viengne e quide <sup>69</sup> droit avoir, eit son cleim sulump lei de tere.

(14) Derechef del an e del iur useez en la cite fet a sauoir ke ki ke unkes eit tenu teres u tenemenz par decence u par purchaz dunt il eit seisine par baillifs u par certain tesmoniage de vinue <sup>70</sup> un an e un iur sanz cleim u chalenge de nulli soit li demandant forclos a remanant, si il ne fust dedenz age, u hors de la tere, u en prisun, u ke ce soit rennable partie en owel genuil, <sup>71</sup> ce est a sauoir frere a soer, uncle a neueu, aunte a niece.

(15) Derechef usage est del an e del iur auantdis ke si nul soit ke preinge rente de nul tenement en la franchise de la cite auandite e sa rente enterement soit arere un an u plus, e il ne itruue ke destreindre, e il ieit edifice e gent habitanz, par cunzie des baillifs de la vile prenge les us <sup>72</sup> e les fenestres, e si par ce ne pust son tenement iustiser ne autre destresce ne itruffe, per agard de la curt e la veue del Alderman de la rue e de un seriant soit mis estage u loc u il iad us, e soit enrulle en la curt e siwi per utaine e autre utaine e tierce utaine e quarentaine un an e un iur acumpli del premer iur de la siwte, e si dunc nul ne vienge pur fere gre, perde le tenant sanz recouer li quel ke il soit, de age u nun, issi ne purkant ke, devant ke li iugement passe, purra tuz iurs gre fere : le quel iugement ne soit pas delaie al damage del demandant. E autele siwte soit fete de tere veude u enblaure niad <sup>73</sup> e ke nul home main ni mette en teres ne en tenemenz auantdis dementiers ke li sequestre li rois iest.

*Endorsement :*

Adquis'. per P. de Hol. custod.

<sup>67a</sup> This is the reading of the MS. ; I cannot trace how *mun* arises from *melius*.

<sup>68</sup> be alleged to be nearer of kin or a parcener.

<sup>69</sup> believes he has right.

<sup>70</sup> the locality (*vicinia*).

<sup>71</sup> *en owel genuil* : 'in equali geniculo', the members of the several pairs counting as equally near heirs.

<sup>72</sup> doors (see p. 128).

<sup>73</sup> where there is no growing crop, *imbladatura*.



FIRST CHARTER OF HENRY II<sup>1</sup>

Henricus Rex Anglie et Dux Normannie et Aquitanie et Comes Andegavie,<sup>2</sup> archiepiscopis, episcopis, abbatibus, comitibus, vicecomitibus, et omnibus fidelibus suis Francis et Anglis, et ministris totius Anglie et omnium portuum maris, salutem. Precipio quod ciues mei Wintonienses de gilda mercatorum cum omnibus rebus suis quieti sint de omni theloneo et passagio<sup>3</sup> et consuetudine et nullus super hoc eos disturbet, neque iniuriam vel contumeliam eis faciat, super forisfacturam meam.<sup>4</sup> Testibus<sup>5</sup> Toma<sup>6</sup> Cancellario, Comite<sup>7</sup> Raginaldo, Comite Gloecestrie, Ricardo de Humetis Constabulario,<sup>8</sup> Garino filio Giroldi Camerario, Willelmo filio Hamonis, Jocelino de Baillol. Apud Saresberiam.

SECOND CHARTER OF HENRY II<sup>9</sup>

Henricus Rex Anglie et Dux Normannie et Aquitanie et Comes Andegavie archiepiscopis, episcopis, abbatibus, comitibus, baronibus, iusticiariis,<sup>10</sup> vicecomitibus et omnibus fidelibus suis Francis et Anglis, salutem. Sciatis me concessisse ciuibus meis Wintonie omnes libertates et consuetudines quas ipsi habuerunt tempore Regis Henrici aui mei. Et precipio quod habeant et teneant omnia acata et vadia sua<sup>11</sup> et tenementa sua secundum consuetudinem

<sup>1</sup> For the date of this and the next charter see J. A. Herbert, *City of Winchester Calendar of Charters*. He limits it to one or other of two periods when Henry II might have been at Salisbury, viz. 7 July to 29 September 1155, and *circa* February to March, 1158.

<sup>2</sup> Anjou.

<sup>3</sup> dues on transit through a town.

<sup>4</sup> on pain of forfeiture to me.

<sup>5</sup> The Charter is granted by the King in Council, and the witnesses are either great magnates who were members of the Council, as the Archbishop or the Earl of Cornwall, or they were officers of the Household, as the Constable and the Chamberlain, the officers of the Household becoming in the twelfth century the national executive.

<sup>6</sup> Thomas Becket.

<sup>7</sup> Earl of Cornwall, natural son of Henry I, died 1175.

<sup>8</sup> Constable of Normandy.

<sup>9</sup> Date, within same limits as No. 1.

<sup>10</sup> *Iusticiarii*—‘in salutations prefixed to Charters . . . seems to include, as it did in France, all land-owners who possess courts of their own or are qualified to act as iudices in the shire-moot.’ Stubbs, *C. H. E.*, i. 420, note 1.

<sup>11</sup> purchases and pledges.

12. Rex angl et byr Florm 7 aquit 7 Gasc. ind. de hijs  
epis. Abbat. Conventib. quicunq. et omib. fidelib. suis francis 7  
angl. 7 ministris totū angl. et omnium portuū mayis. sat. Pre  
cipio qd. Gues mei Cantōn. de Gilda mercatorū. cu omib. reb;  
suis quieti sint de omni Theloneo. 7 passagio. 7 consuetudine  
et nullus sup hoc eos disturbet. Neq; lesuria l. pecunieham  
eis faciat. sup forfacturā meā. t. tōm Sancti. Com pag  
Com. Glouc. Ut de hūm Constab. Gay sit tū. Samp  
Wilt sit ham. soc de Baild. ap Sar.





IX. Rex Angl. 7 Dux Norm. 7 Aquit. 7 Com. And. Archiep. Ep. Ab.  
b. b. Comitib. Bar. iustici. Sacer. 7 vniuers. fidelib. suis Franc. 7 An.  
gl. Sal. Scitis me concessisse vniuersis vniuers. om. libertates  
7 consuetudines q. ipsi habuerunt tps. Regis Henr. Aui mei. Et percipio  
q. hant 7 teneant omnia Acrea 7 vadia sua 7 tenementa sua sedm  
consuetudine civitatis ita libe 7 q. et 7 honorifice sic unq. meli. tenu  
erunt tps. regis Henr. Et si aliq. consuetudines iuste levataz se i. b.  
m. Cassare sint. Et q. unq. percipit. tunc illa cu. mercato suo de q.  
unq. loco sint sine extor. sine aliq. veniant. movent 7 procedant in  
silva p. l. e. mea p. dendo rectas consuetudines. Et nemo eos iuste  
disturbet sup. hac Carta mea. Et volo 7 percipio q. p. dicti. Cives me  
i. p. p. p. p. iuste habeant. Et Tom. Cant. Willelmo fr. Beatis. R.  
Com. Corn. Willelmo Com. Glouc. fr. de Luni Const. W. fil. Ger.  
Com. Willelmo fil. ham. Willelmo de Bullolo. Joh. de apress. ap. Sagess.









a. 10. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 846

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*Son of the*      *Louise, Queen*

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ciuitatis ita libere et quiete et honorifice sicut unquam melius tenuerunt tempore regis Henrici. Et si aliquę consuetudines iniuste leuate sunt in gwerra,<sup>12</sup> cassate sint. Et quicunque petierint ciuitatem illam cum mercatu suo, de quocunque loco sint, siue extranei siue alii, ueniant, morentur et recedant in salua pace mea<sup>13</sup> reddendo rectas consuetudines. Et nemo eos iniuste disturbet super hanc cartam meam. Et volo et precipio quod predicti ciues meam firmam pacem iuste habeant. Testibus Toma Cancellario, Willelmo fratre Regis,<sup>14</sup> Reginaldo Comite Cornubie, Willelmo Comite Glocestrie, Ricardo de Humetis Constabulario, Warino filio Geroldi Camerario, Willelmo filio Hamonis, Jocelino de Baillolo, Johanne Marescallo. Apud Saresberiam.

BAILIFFS' ACCOUNT FOR 28 EDWARD III (1354-5)

Compotus Henrici Rende et Johannis Biketon Balliuorum Wyntonie anno regni regis Edwardi tercii xxviii.

Redditus et Terragium.<sup>1</sup> iidem respondent de vii*li*. vs. v*d*. receptis de terragio hoc anno.  
Et de vii*li*. xiiiis. xi*d*. de redditibus sub pentice.  
Et de x*li*. iiis. iii*d*. de redditibus fullonum<sup>2</sup>

Summa xxv*li*. iiis. viii*d*.

Placita et Perquisita. Et de x*li*. vs. vi*d*. de placitis et perquisitis curie hoc anno.  
Et de xviis. iii*d*. de minutis amerciamentis non irrotulatis.<sup>3</sup>  
Et de vii*li*. xiii*d*. de amerciamentis ceruisie<sup>4</sup> hoc anno.  
Et de xxis. x*d*. de custuma panis<sup>5</sup> in summo vico per annum, videlicet per septimanam v*d*. ob.  
de eadem custuma in aliis vicis nichil hoc anno.  
Et de xxs. de custuma stallarum<sup>6</sup> hoc anno.  
Et de xlviiiis. vi*d*. de signis ceruisie appositis<sup>7</sup> hoc anno.  
Et de xiis. viii*d*. de custuma portarum<sup>8</sup> hoc anno.

<sup>12</sup> *in gwerra*: the wars in Stephen's reign.

<sup>13</sup> *pace mea*: the King's peace was the protection secured by the enforcement of law.

<sup>14</sup> Third son of Geoffrey of Anjou and Matilda, born August 1136, died at Rouen 29 January, 1164.

<sup>1</sup> Rents and ground rents.

<sup>2</sup> The fullers paid a mark of gold for the right to have a gild. The rents are for the fulling mills at Coytebury and for the 'tentoria' occupied by fullers.

<sup>3</sup> See above, p. 131.

<sup>4</sup> Usages, §§ 39 and 40.

<sup>5</sup> Usages, § 38.

<sup>6</sup> Usages, §§ 29, 35.

<sup>7</sup> Usages, § 39.

<sup>8</sup> Usages, §§ 48-58.



Et de viiis. de herbagio fossati ciuitatis <sup>9</sup> hoc anno.

Et de xxxviiiis. de custuma piscium <sup>10</sup> hoc anno.

Et de iis. de custuma alleciorum rubrorum <sup>11</sup> venditorum hoc anno.

Et de xixs. *xd.* receptis de finibus et conuencionibus hominum extra libertatem <sup>12</sup>.

Et de xxxviiiis. receptis de custuma utensilium textorum <sup>13</sup> hoc anno.

Et de iiiis. de viii gutteriis <sup>14</sup> in summo vico hoc anno.

de syndermannis <sup>15</sup> nichil hoc anno.

de smergauel <sup>16</sup> nichil hoc anno.

Catalla  
foris facta  
et extraura  
et weuia.  
Stapula.

Summa *xlii.* xiiis. *xd.*

de catallis forisfactis extrauris et weuiis <sup>17</sup> nichil hoc anno.

Et de viii*li.* receptis de Willelmo Haselwod et Johanne Bromble receptoribus pesagii <sup>18</sup> et custume stapule.

Summa viii*li.*

Summa totalis recepte lxii*li.* *vid.*

De quibus computant solutos pro pulsacione de  
Griggesbelle <sup>19</sup>

iis.

in solutis domino Regi ad duo profra <sup>20</sup>

xiiiis. viii*d.*

item domine Isabelle regine Anglie <sup>21</sup> pro firma ciuitatis

lxvi*li.* xiiis. iiiii*d.*

item custodi hospicii sancte Marie Magdalene <sup>22</sup>

lxs.

item pro Roba <sup>23</sup> clerici et iiiii seruiencium

lxvis. viii*d.*

in stipendio clerici ciuitatis

xls.

in solutis pro allacione carte ciuitatis et ipsa irrotulanda coram

<sup>9</sup> The grazing of the City ditch.

<sup>10</sup> Usages, §§ 29-33.

<sup>11</sup> Usages, § 34.

<sup>12</sup> Usages, § 41.

<sup>13</sup> Usages, §§ 11 and 15.

<sup>14</sup> The receipt from *gutteria* was probably on account of easement granted to tenants for carrying off rain-water (see Bateson, *Leicester*, ii. 385, for a similar instance).

<sup>15</sup> Usages, § 58.

<sup>16</sup> Usages, § 60.

<sup>17</sup> goods forfeited, waifs, and strays.

<sup>18</sup> 'pesage' is the duty on goods by weight collected at the Staple; see above, p. 98.

<sup>19</sup> The ringing of the Curfew, the bell (in St. Peter in Macellis) being named after its donor.

<sup>20</sup> The audit at the Exchequer.

<sup>21</sup> See above, p. 11.

<sup>22</sup> The payment of sixty shillings to 'the men on the hill' appears in the Provost's account as far back as the reign of Henry II. The hospital was on the north side of the Alresford Road; see Milner's *Winchester*, ii. 231, for an account of the ruins.

<sup>23</sup> The allowance of cloth for the livery of the Clerk and Serjeants.





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domino Willelmo Sharesulle <sup>24</sup> et sociis suis iusticiariis domini Regis ad assisas etc.	vis. vii <i>d</i> .
in expensis Johannis Biketon, Balliui, ad profrum in Clauso Pasche	xxs.
in expensis eiusdem super compotum suum	lxs.
in solutis Johanni Holte, attornato ciuitatis	vis. vii <i>d</i> .
item solute pro coopertura aule placitorum <sup>25</sup>	iis. x <i>d</i> . ob.
item soluti pro breui domini Regis de capiendo in manum domini Regis tenementa quondam Thome le Palmere	iiis. iii <i>d</i> .
item pro breui domini Regis de exoneracione de auro Regine de tenementis predictis <sup>26</sup>	iis. vi <i>d</i> .
Summa iii <i>xx</i> li. <sup>27</sup> xviii <i>s</i> . vii <i>d</i> . ob.	
et debentur Balliuis preter vii <i>i</i> li. quas receperunt de custuma stapule ut patet supra	xviii <i>li</i> . xviii <i>s</i> . ii <i>d</i> . ob.

#### CARTA ROBERTI BUKYNGEHAM.<sup>1</sup>

Sciant presentes et futuri quod ego Robertus de Bukyngeham, Clericus, de licencia Domini Edwardi [Regis] Anglie illustris tercii post conquestum, dedi concessi et hac presenti carta mea confirmaui Religiosis viris Fratri Alexandro<sup>2</sup> permissione diuina Priori Ecclesie Cathedralis sancti Swithini Wyntonie et eiusdem loci Conuentui quoddam tenementum cum suis pertinenciis quod vocatur la Cloth-selde<sup>3</sup> quod situm est in summo vico Ciuitatis Wyntonie inter tenementum Ricardi Horsmayn ex parte occidentali et vicum de

<sup>24</sup> The last previous Charter we have of the reign of Edward III is that of the tenth year of his reign; it may have been a copy of this Charter that was enrolled at Winchester eighteen years afterwards. Sharesull was chief Justice of King's Bench 1350-7.

<sup>25</sup> Repairs to the roof of the City Court-house.

<sup>26</sup> Queen-gold was a percentage (one-tenth) due to the Queen, where a grant had been made by the King, from the grantee. Here a king's writ exempts the city from the claim of Queen-gold on Palmer's tenement. It is possibly the house in Calpe Street belonging to Abraham the Jew, forfeited to the Crown in 1279 and granted to John le Palmere (Charter Rolls of Edward I).

<sup>27</sup> i. e. fourscore pounds.

<sup>1</sup> Bukyngeham's name occurs in the Receiver's Roll of the Priory for the year 1334-5 as in receipt of a rent of £5 6*s*. 8*d*. 'pro tenementis ab eo perquisitis' (Kitchin, *Ob. Rolls*, pp. 233, 242). For his grant to the Priory see above, p. 77.

<sup>2</sup> Alexander Heriard, confirmed as Prior in 1327.

<sup>3</sup> *selde*: a shop; the word appears in the form 'seude' in Usages, § 23.



Wonegarestret<sup>4</sup> ex parte orientali. Dedi eciam et concessi dictis Priori et Conuentui quoddam tenementum cum suis pertinenciis quod situm est in ciuitate predicta inter Gyweristret et Brudenestret<sup>5</sup> inter tenementum quod quondam fuit Stephani atte Hurne ex parte orientali et quandam strictam venellam que ducit usque ad ecclesiam sancti Petri atte Whitebrede,<sup>6</sup> et unum tenementum cum suis pertinenciis quod situm est super montem sancti Egidii in soca Wyntonie inter tenementum Abbatis et Conuentus de Dureforde<sup>7</sup> ex parte orientali et quemdam vicum qui ducit de Cutelria<sup>8</sup> super dictum montem directe usque ad papillionem, et duas schoppas sitas super predictum montem in Vico de Cutelria predicta inter tenementum Fratrum Capellanorum de Calendra<sup>9</sup> Wyntonie ex parte boreali et tenementum predicti Roberti de Bukyngeham ex parte australi, et unam schoppam sitam super dictum Montem in vico speciariorum inter tenementum predictorum Abbatis et Conuentus de Dureforde ex parte occidentali et tenementum Prioris et Conuentus de Suthewyk<sup>10</sup> ex parte orientali, Et quamdam fabricam cum curtilagio adiacente in Suburbio Wyntonie extra portam Australem dicte Ciuitatis quam Willelmus Faber modo tenet. Dedi eciam et concessi predictis Priori et Conuentui viginti nouem solidatas et sex denariatas quieti et annui redditus<sup>11</sup> percipiendas videlicet de duabus schoppis quas Thomas le Moenes nuper tenuit de predicto tenemento de la Clothselde in Ciuitate predicta viginta solidatas redditus, de uno mesuagio quod Petronilla atte Watere nuper tenuit de predicto tenemento de la Clothselde nouem solidatas redditus, et de tene-

<sup>4</sup> Now Middle Brook Street.

<sup>5</sup> Now Staple Garden.

<sup>6</sup> Westward of Staple Garden, between that street and Tower Street.

<sup>7</sup> The Abbey of Dureforde was in Sussex; it had property also in the parish of Liss (*V. C. H.* iv. 85).

<sup>8</sup> The shops and booths on St. Giles's, though only used for trading purposes the sixteen days of the Fair, must have been permanent buildings; one set of three shops and a tenement held by Robert de Alegate, a citizen of London, yielded a rent of 102 shillings, besides a terrage paid to the Bishop of two marks (26*s.* 8*d.*). Besides the Cutlers' Street and the Grocers' Street here mentioned, we know of the Potters' Street, all in the vicinity of Palm Hall (*pauilio*).

<sup>9</sup> The work of the fraternity of Kalenders was the keeping of records, and it included the duty of keeping other religious corporations throughout the diocese informed on such points as the dates of the movable feasts and the list of Canonized Saints. Their church in Winchester was in the High Street, east of Parchment Street and opposite the Pentice.

<sup>10</sup> The Priory received ground-rent also for the Sterre, the great inn in St. Mary Kalendar Parish, which was City property.

<sup>11</sup> A rent-charge of twenty-nine shillings and sixpence.

mento Semanni le Skynnere<sup>12</sup> quod situm est in Ciuitate predicta inter Gyweristret et Brudenestret inter tenementum predictorum Prioris et Conuentus sancti Swithini ex parte orientali et tenementum quod quondam fuit Stephani atte Hurne ex parte occidentali sex denariatas redditus; Habenda et tenenda omnia predicta tenementa et redditus cum omnibus suis pertinenciis una cum quadam feria vocata la Lowsfeyre<sup>13</sup> singulis septimanis per dies Martis et Mercurii, cum omnibus libertatibus et liberis consuetudinibus suis ad predictum tenementum de la Clothselde pertinentibus, predictis Priori et Conuentui et eorum successoribus de Capitalibus<sup>14</sup> Dominis feodi libere quiete et in bona pace imperpetuum per seruicia inde debita et de iure consueta: Et ego vero Robertus predictus et heredes mei omnia predicta tenementa et redditus cum suis pertinenciis una cum predicta feria, ut predictum est, predictis Priori et Conuentui et eorum successoribus contra omnes gentes warantizabimus imperpetuum. In Cuius rei testimonium presenti carte sigillum meum apposui. Et ad maiorem huius rei securitatem sigillum commune Ciuitatis predicte apponi procuraui. Hiis testibus, Johanne le Deueneyis tunc Maiore Ciuitatis Wyntonie, Roberto Dymaunde et Roberto de Waram tunc balliuis eiusdem Ciuitatis, Johanne Gabriel, Willelmo de Marleburghe, Johanne de Nhotteley, Willelmo Gabriel, Henrico le Canuacer, Waltero Fesawnt tunc Aldermanno summi vici Ciuitatis predicte, Willelmo de Westmannecote tunc balliuo de Soca Wyntonie, Johanne de Colyngeham, Johanne Iwone, Willelmo de Andeuere, Ricardo de Basyng et aliis. Datum Wyntonie primo die mensis Octobris Anno regni Regis Edwardi tercii post conquestum quarto.

Acta fuit ista Carta et lecta in Curia Ciuitatis Wyntonie tenta ibidem primo die Octobris Anno regni Regis Edwardi tercii post

<sup>12</sup> Seman the Skinner was tenant of a house within the limits of the Staple in 28 Edward III.

<sup>13</sup> The 'seude' mentioned in the Usages, § 23, may be the part of the cloth-selde used for this market.

<sup>14</sup> i. e. the original lord. This formula is used after the statute of *Quia Emptores* which abolished mesne tenants and connected the new owner directly with the chief lord. The survey of 1148 speaks of 'magna domus in qua venduntur panni linei'. King John granted it to William his tailor on service of a fur coat (*peliceum de griso*), and it passed first to Hugh de Stoke, then to W. de Dunstaple, and the coat continued to be rendered by the Priory after the Cloth-selde was granted to it by Bukyngeham. (See *Ob. Rolls*, p. 241-2, Domesday Addit., 544 b, *Arch. Journal*, vii. p. 375, 381.)



conquestum quarto, tempore Maioris et balliuorum suprascriptorum et irrotulata fuit in rotulo Stachie<sup>15</sup> xxx<sup>o</sup> die Aprilis anno regni eiusdem Regis vii<sup>o</sup>, tempore Johannis de Nhotle, tinctoris, Maioris, et Johannis de Brightwell et Willelmi Edward, tinctoris, Balliuorum eiusdem Ciuitatis.

Et ista carta lecta fuit in Curia Soke Wyntonie tenta die Jouis quinto die Octobris Anno regni Regis Edwardi tercii a conquestu quarto, et anno consecracionis domini Johannis de Stratford<sup>16</sup>. Wyntoniensis Episcopi septimo, et irrotulata in Rotulo cartarum, stachie, testamentorum et uniuersorum scriptorum coram Willelmo de Westmanecote tunc balliuo dicte Soke et sectatu<sup>17</sup> Curie predictæ: Et concessa est seisyna secundum consuetudinem Soke de tenementis suprascriptis saluo iure cuiuslibet.

Memorandum quod dominus tenementi quod vocatur la Clothselde potest tenere curiam suam de omnibus tenentibus commorantibus in procinctu eiusdem tenementi de tribus septimanis in tres septimanas et omnia commoda et amerciamenta habebit: Et sciendum est quod si aliquis tenencium predictorum ad Curiam Ciuitatis per aliquem extraneum in placitum trahatur attornatus dicti tenementi a Maiore et Balliuis Ciuitatis in Curiam domini de la Clothselde remittet et ibidem discucietur et terminabitur coram illo qui Curiam domini illius tenementi tenuerit.

Ad istud tenementum est quedam feria pertinens ad dominum tenementi de la Clothselde vocata la Lousfayre singulis septimanis per dies Martis et Mercurii in qua omnes vendentes lineam telam et caneuacium<sup>18</sup> soluent pro qualibet pecia lineæ tele et caneuacii obulum: item pro qualibet assura<sup>19</sup> cuiuslibet pecie lineæ tele in dicta feria vendita obulum: Item quilibet mercator forincecus vendens lineam telam seu caneuasium stabit ex consuetudine in eodem tenemento et tunc satisfaciet domino pro stacione secundum quod inter eos potest conueniri: et si aliquis extraneus stet alibi quam in tenemento predicto faciet domino satisfaccionem secundum quod inter eos potest conueniri: Et si aliquis mercator lineæ tele seu caneuacii de villa, siue sit in libertate siue non, in propriis celdis

<sup>15</sup> For the stake roll see above, p. 86.

<sup>16</sup> Bishop of Winchester 1323-33, Archbishop of Canterbury 1333-48.

<sup>17</sup> The suit, or body of tenants required to attend the Court, usually *secta*.

<sup>18</sup> canvas, from *cannabis* = hemp.

<sup>19</sup> = *assula*: i. e. a fragment or portion.





COURT OF PIE POWDER  
5 HENRY VI

huiusmodi mercimonia vendat, satisfaciet domino de la Clothselde secundum quod inter eos potest conueniri, quia consuetudo et libertas huius ferie est quod linea tela et caneuiacium per aliquos mercatores intrinsecos vel forinsecos alibi in Ciuitate Wyntonie per dies Martis et Mercurii quam in dicto tenemento vocata (*sic*) la Clothselde nisi de licencia domini predicti tenementi et sibi pro sufferencia habenda satisfaciant aliquo modo vendi [non] debet.

### COURT OF PIE POWDER

A page from the roll of 5 Henry VI (1426-7)

Curia pedis puluerizati tenta ibidem die Mercurii post festum sancti Michaelis Archangeli coram Ricardo Turnant, Maiore, et Nicholao Warnere et Willelmo Fromond, Balliuis, anno regni Regis Henrici Sexti post conquestum Anglie quinto.

### ADJOURNMENT—THE SIX COURTS.

Hora viii<sup>a</sup> ante prandium diei Mercurii proximi post festum sancti Michaelis Archangeli anno regni Regis Henrici VI<sup>ti</sup> quinto.  
ponit loco suo Thomam Porter.<sup>1</sup>

Thomas Horshock queritur versus Johannem Harpur, Osterman,<sup>2</sup> de placito debiti: ideo preceptum est ipsum attachiare quia extraneus est erga horam predictam: plegius de prosequendo Willelmus Merssh.

Ad quam horam partes exacte solempniter fuerunt et pars querens comparuit in propria persona sua et defendens non comparuit et respondetur<sup>3</sup> quod districtus est per unum equum glauci<sup>4</sup> coloris: ideo preceptum est ipsum melius distringere erga horam x<sup>am</sup> ante prandium illius diei.

Ad quam horam partes exacte solempniter fuerunt et pars querens comparuit in propria persona sua et defendens non comparuit et minister respondit quod attachiatus est ut supra: ideo preceptum est ipsum melius distringere erga horam ii<sup>am</sup> post prandium illius diei.

Ad quam horam partes exacte solempniter fuerunt et pars querens comparuit in propria persona sua et defendens non comparuit et minister respondit quod attachiatus est ut supra: ideo preceptum est ministro curie ipsum melius distringere erga horam quartam post prandium illius diei.

Ad quam horam partes exacte fuerunt et pars querens comparuit

<sup>1</sup> i. e. as his attorney. Porter was also *minister curie*.

<sup>2</sup> Possibly = oyster-man.

<sup>3</sup> By the serjeant (*minister*).

<sup>4</sup> Grey.



in propria persona sua et defendens non comparuit et minister respondit quod districtus est ut supra: ideo preceptum est ipsum melius distringere erga horam viii<sup>am</sup> ante prandium diei Jouis proximo die sequenti.

Ad quam horam partes predictae exacte fuerunt et pars querens comparuit in propria [persona] sua et defendens non comparuit.

Ista curia est vi<sup>ta</sup> curia et quia defendens non comparuit preceptum est ministro curie quod venire faciat Rogerum Cagere et Johannem Beketon, taylor, ad appreciandum equum predictum erga horam viii<sup>am</sup> ante prandium diei Veneris proximo die sequenti:

Ad quam horam predicti Rogerus et Johannes comparuerunt et M. iiid.<sup>6</sup> appreciauerunt predictum equum ad iiis.: deliberatus est predicto querenti nomine excusionis de iis. et xd: plegius de predicto equo et de precio eiusdem equi Willelmus Merssh, salvo die et anno secundum consuetudinum: et defendens in misericordia.

#### A CLERICAL PLAINTIFF

Hora viii<sup>a</sup> ante prandium diei Veneris proximo ante festum sancte

Fidis Virgenis <sup>5</sup> anno regni Regis Henrici VI<sup>ti</sup> quinto.

petit licenciam concordandi

M. iiid.<sup>6</sup> Regenaldus Capellanus de Maule queritur versus Johannem Knyzt de placito dentencionis unius baselardi cum una vagenaharnaseata cum argento ad idem<sup>7</sup>: ideo preceptum est ipsum attachian-  
dus.<sup>6</sup> attachiare quia extraneus est.

#### DROVER V. BUTCHER

Willelmus Teysant, drovere, queritur versus Thomam Parkere de Soka Wyntonie, boucher, de placito debiti: plegius de proseguendo  
attachian-  
dus.<sup>6</sup> Willelmus Sequence: ideo preceptum est ipsum attachiare quia extraneus est: plegius defendentis Willelmus Farle.

Ad quam horam partes exacte fuerunt et comparuerunt et continuerunt predictam curiam per excusacionem partium usque in horam terciam post prandium die Sabati proximo die sequenti per plegium Willelmi Farle.

Ista curia continuatur per plegium Willelmi Farle et per excusacionem partium usque in horam terciam post prandium diei Sabati proximo die sequenti, idem dies et eadem hora.<sup>6</sup>

idem dies et eadem hora.<sup>6</sup>

<sup>5</sup> October 6.

<sup>6</sup> The clerk's notes of fine (*misericordia*), attachment, or date.

<sup>7</sup> A dagger with silver-mounted sheath.

Ad quam horam partes exacte fuerunt et pars querens comparuit per predictum attornatum suum et defendens non comparuit ideo M. iii<sup>d</sup>.<sup>6</sup> plegius in misericordia et preceptum est Willelmo Farle, plegio predicti Thome Parkere, ipsum habere erga horam ii<sup>am</sup> post prandium die Dominice proximo die sub pena iii<sup>d</sup>.

Ad quam horam partes exacte fuerunt et pars querens comparuit per predictum attornatum suum et defendens non comparuit: ideo plegius in misericordia quia ipsum non habet: ideo preceptum est Willelmo Farle, plegio Thome Parkere, ipsum habere erga horam primam ante prandium diei Lune proximo die sequenti sub pena vi<sup>d</sup>.

Ad quam horam partes exacte fuerunt et pars querens comparuit per predictum attornatum suum et defendens comparuit in propria persona sua et cognovit viiis. viii<sup>d</sup>. quos soluit in curia quos ei debuit pro bidentibus emptis a querente xx<sup>o</sup> die Augusti anno regni Regis Henrici VI<sup>ti</sup> quarto soluendos ad voluntatem: ideo consideratum est per curiam quod querens recuperet denarios predictos cum M. iii<sup>d</sup>.<sup>6</sup> dampnis taxatis<sup>7</sup> per curiam ad vi<sup>d</sup>., et defendens in misericordia.

LETTER OF HENRY BEAUFORT, Bishop of Winchester, to the Mayor and Bailiffs of Winchester, complaining of their interference with his tenants in the Soke (1410?).

A nos treschiers amis le Maire et les Bailiffs de Winchestre.

Tres chiers amis, Nous vous saluons En vous Requeranz si aucunement volez auoir nostre amour ne<sup>1</sup> seignorie<sup>2</sup> que a nous<sup>3</sup> tenans de par de la,<sup>4</sup> aux quelx nous a este notifie et done a atandre que avez done et donez certaines vexacions et encombrances, que desorauant<sup>5</sup> vous vueillez desporter,<sup>6</sup> quar il nous deplaira tresgrandement si aucunement vous facez le contraire.

Escript a nostre manouer de Sowdeuarc<sup>7</sup> le desrain<sup>8</sup> Jour de Fieburier.

Henry

de Winchestre.

Euesque<sup>9</sup>

<sup>7</sup> Damages allowed by the Court after examination.

<sup>1</sup> 'and'.

<sup>2</sup> The protection of a lord.

<sup>3</sup> = nos.

<sup>4</sup> On the other side of the river, i.e. in the Soke.

<sup>5</sup> =désormais, from this time onward, 'avant' having the same effect as 'mais' (magis).

<sup>6</sup> (reflexive) 'abstain'.

<sup>7</sup> i.e. Southwark.

<sup>8</sup> dernier.

<sup>9</sup> Beaufort was nominated Bishop of Winchester in 1404, but was not Cardinal until 1426.



The following documents are in the possession of the Mayor and Corporation of the City of Winchester.

I. *Charters and Royal Grants* (extracted from the Calendar of City Charters drawn up for the Corporation by Mr. J. A. Herbert in 1914).

<i>Regnal Year</i>	<i>Nature of Grant</i>
1. First Charter of Henry II.	Given in full p. 178.
2. Second Charter of Henry II.	Given in full pp. 178-9.
3. 1 Richard I	Various liberties.
4. 11 Henry III	Various liberties.
5. 18 Edward I	Confirmation of No. 4 [there is a duplicate copy of this Charter].
6. 17 Edward II	Confirmation of No. 5.
7. 1 Edward III	Confirmation of Nos. 1, 2, and 5, and various liberties.
8. 10 Edward III	Confirmation of No. 5 and various liberties.
9. 1 Richard II	Confirmation of No. 8.
10. 3 Henry IV	Confirmation of No. 8.
11. 17 Henry VI	Confirmation of No. 10.
12. 18 Henry VI	License to hold lands in mortmain in relief of impoverishment of the City.
13. 27 Henry VI	License to hold Market and Fair.
14. 1 Edward IV	Confirmation of Charter of 30 Henry VI making grant to the City from Ulnage.
15. 2 Edward IV	Confirmation of No. 11 and of a Charter of 20 Henry VI, which grants relief to the City.
16. 2 Henry VII	Confirmation of No. 14.
17. 20 Henry VII	Continuation of Grant No. 14.
18. 6 Henry VIII	Confirmation of Charter of 5 Henry VII which recites Nos. 15, 16, 17.
19. 8 Henry VIII	Permission for Mayor's oath to be taken in Winchester.
20. 10 Henry VIII	License to hold two Fairs.
21. 1 & 2 Philip and Mary	Grants of Rents, &c., to the City.
22. 3 Elizabeth	Confirmation of No. 21.
23. 30 Elizabeth	Grant of new Constitution to the City.
24. 2 James I	Grant from Fee Farm Rent for sixty years.
25. 26 Charles II	Continuation of Grant of No. 24.
26. 15 Sept., 4 James II	Reconstitution of the City after Surrender of its Privileges.
27. 6 Nov., 4 James II	" " "
28. 7 George II	Continuation of Grant of No. 25.
29. 1 George III	Continuation of Grant of No. 28.

II. *Miscellaneous Documents (illustrating History of the City to the end of the reign of Henry VI).*

- 1266. Agreement between the Commonalty and the Priory of St. Swithin relating to the custody of King-gate.
- 1330. Exemplification of enrolment of Charter of Robert de Bukyngeham.
- 1331. License to John Devenish to give 100 solidates of rent to St. John's Hospital.
- 1369. Acquisition of property in the Manor of Otterbourne.
- 1380-1416. Twelve lists of City officers.
- 14th cent. (late) Murage Roll.
- 14th cent. (late) } Two copies (English) of the *Usages of the City of*  
 15th cent. (early) } *Winchester.*
- 1406. Lease of the Flood-gate, and the Fish-bed, with water rights.
- 1409. Proceedings at Westminster relating to a dispute between the City and the Abbot of Hyde.
- 1412. Grant from Henry IV to Queen Joan of rights in places assigned to her as dowry.
- 1422. Power of Attorney from Queen Joan to John Bye and others to collect her dues in Winchester.
- 1422 Indenture between Queen Joan and the Commonalty for composition for her dues.
- 1410. (*circa*) Letter from Bishop Beaufort to the Mayor and Bailiffs complaining of encroachment in the Soke.
- 1451. Covenant between Bishop Waynflete and the Commonalty relating to interference by the latter with the Bishop's rights in the Fair.
- 1412. Grant from Henry IV to his Confessor, John Tylle, from Ulnage.
- 1440. Grant from Henry VI to John Gymer of the farm of Ulnage.

III. *Compotus and other Rolls (to the end of the reign of Henry VI).*

Account Rolls.

Of Mayor, Bailiffs, Chamberlains, Aldermen, and Laghmen, Collectors of Subsidies, of Tenths, of Murage, Pesage, &c. The earliest is for 26 Edward III, and there are other rolls for 43 separate years.

Subsidy Rolls.

For four years of Henry VI and one of Edward IV.

City Court Rolls.

The earliest are 54 Henry III, 25 & 27 Edward I, 3 Edward III; 59 other rolls.

Court of Pie Powder.

3, 5, 7, 11, 19 Henry VI.

St. John's Hospital Account Rolls.

8, 9, 16 of Edward II, and 51 of subsequent years.



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